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WHEN: Tuesday, July 9, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1034; Directorate Identifier 2011–NM–051–AD; Amendment 39–17383; AD 2013–05–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 series airplanes. That AD currently requires one-time and repetitive inspections of specific areas and, when necessary, corrective actions for those rudders where production rework has been identified. This new AD adds airplanes with certain rudders to the AD applicability; changes an inspection type for certain reinforced rudder areas; requires pre-inspections and repairs if needed; and requires permanent restoration of vacuum loss holes. This AD also requires additional inspections for certain rudders and repair if needed, and requires replacement of certain rudders with new rudders. This AD was prompted by reports of surface defects on rudders that were the result of debonding between the skin and honeycomb core. We are issuing this AD to detect and correct extended de-bonding, which might degrade the structural integrity of the rudder. The loss of the rudder leads to degradation of the handling qualities and reduces the controllability of the airplane.

DATES: This AD becomes effective July 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of December 10, 2010 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 2, 2012 (77 FR 60064), and proposed to supersede AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). That NPRM proposed to correct an unsafe condition for the specified products. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0164, dated August 5, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Surface defects were visually detected on the rudder of one A319 and one A321 in-service aeroplane.
>
> Investigation has determined that the defects reported on both rudders corresponded to areas that had been reworked in production. The investigation confirmed that the defects were a result of de-bonding between the skin and honeycomb core.
>
> An extended de-bonding, if not detected and corrected, may degrade the structural integrity of the rudder. The loss of the rudder leads to degradation of the handling qualities and reduces the controllability of the aeroplane.
>
> EASA AD 2009–0141 required inspections of specific areas and, when necessary, the application of corrective actions for those rudders where production reworks have been identified.
>
> This [EASA] AD retains the requirements of EASA AD 2009–0141 (addressing the populations of rudders affected by AOT A320–55–1038), which is superseded, and requires:
>
> —a local ultrasonic inspection for reinforced area instead of the local thermography inspection, which is maintained for non-reinforced areas, and
>
> —additional work performance for rudders on which this thermography inspection has been performed in the reinforced area, and
>
> —additional work performance for some rudders on which an additional area requiring inspections is defined.
>
> This [EASA] AD also addresses the populations of rudders affected by AOT A320–55–1039 and Airbus SB A320–55–1035, A320–55–1036 and A320–55–1037 which were not included in EASA AD 2009–0141.

Part number (P/N) D554 71000 020 00, serial number (S/N) TS–1494; and P/N D554 71002 000 00 0002, S/N TS–2212; are listed in Appendix A of the MCAI. These two items are included in this AD, because they were not listed in previous AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). This AD requires the permanent restoration of vacuum loss holes and does not allow the temporary restoration with self-adhesive patches, or temporary restoration with resin that is specified in the MCAI. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Support for the NPRM (77 FR 60064, October 2, 2012)

United Airlines (UAL) stated that it generally agrees with the proposed requirements of the NPRM (77 FR 60064, October 2, 2012).

Request for Additional Compliance Time

UAL requested that we add ''a grace period from the AD effective date'' for the compliance time for the inspection specified in paragraph (y) of the NPRM (77 FR 60064, October 2, 2012). UAL

stated that some rudders used in sampling inspections may be over the compliance threshold specified in paragraph (y) of the NPRM. UAL proposed an alternative method of inspection for the affected rudders.

We partially agree. We agree with adding a compliance time of 30 days after the effective date of this AD for the inspection specified in paragraph (y) of this AD. We disagree with the commenter's proposed alternate method of inspection because no justification was submitted to substantiate that this alternate inspection method would adequately address the identified unsafe condition. Under the provisions of paragraph (ff) of this AD, we will consider requests for approval of an alternate method of compliance (AMOC) if sufficient data are submitted to substantiate that an alternate inspection method would provide an acceptable level of safety.

Request To Correct Contact Information

Airbus requested that we change certain contact information. Airbus stated that paragraphs (j) and (dd) of the NPRM (77 FR 60064, October 2, 2012) should state that, for negative findings, submit the report to SEES1, Customer Services, fax +33 (0)5 61 93 36 14. Airbus also requested that we replace EAS with EIAS in paragraph (gg)(2) of the NPRM.

We agree and have changed paragraphs (j) and (dd) of this AD accordingly. We have also included the term EIAS in paragraphs (gg)(2) and (hh)(5) of this AD.

Request for Permanent Repair Approval

Airbus requested that we consider each Airbus Repair Approval Sheet (RAS) approved under Airbus Design Organization Approval (DOA) EASA.21J.031, provided to each rudder after damage is reported, as an approved method for permanent repair of rudder damage.

We agree. Airbus is an EASA delegated agent and therefore a RAS approved under Airbus Design Organization Approval (DOA) EASA.21J.031 would be method of compliance for a repair required by this AD. We have not changed this AD in this regard.

Request To Clarify Temporary Repairs

Airbus requested that we clarify why the NPRM (77 FR 60064, October 2, 2012) does not allow the temporary restoration with self-adhesive patches, or the temporary restoration with resin, which are specified in the MCAI.

We agree to clarify. Airbus All Operators Telex (AOT) A320–55A1038, Revision 02, dated September 28, 2009, does not provide specific procedures for operators to apply and inspect temporary restoration of vacuum loss inspection holes. This service information also does not specify pass/fail criteria for the detailed visual inspections associated with temporary repairs. This service information states that details of the hole restoration are provided in technical adaptations. We do not have access to technical adaptations for incorporating the technical adaptations by reference. Under the provisions of paragraph (ff) of this AD, we will consider requests for approval of an AMOC if sufficient data are submitted to specify an acceptable process for temporary repairs and that those temporary repairs would provide an acceptable level of safety. We have not changed the AD in this regard.

Additional Changes Made to This AD

In the NPRM (77 FR 60064, October 2, 2012), we included rudders P/N D554 71000 020 00, S/N TS–1494; and P/N D554 71002 000 00 0002, S/N TS–2212 in table 6 to paragraph (c) of the NPRM. In this final rule, we have specified these part/serial numbers in paragraphs (c), (aa), and (ee) of this AD, and removed table 6 to paragraph (c) of this AD.

We have also revised this final rule to change tables 4a, 4b, 5a, and 5b to figures 1, 2, 3, and 4 of this AD; we made no change to the content of those tables. These changes were made for formatting purposes only.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously—and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 60064, October 2, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 60064, October 2, 2012).

Costs of Compliance

We estimate that this AD will affect about 721 products of U.S. registry.

The actions that are required by AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)), and retained in this AD take about 11 work-hours per product, at an average labor rate of $85 per work hour. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the currently required actions on U.S. operators to be $674,135, or $935 per product.

We estimate that it will take about 11 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $674,135, or $935 per product.

In addition, we estimate that any necessary follow-on actions would take about 12 work-hours and require parts costing $10,000, for a cost of $11,020 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)), and adding the following new AD:

2013–05–11 Airbus: Amendment 39–17383. Docket No. FAA–2012–1034; Directorate Identifier 2011–NM–051–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 26, 2013.

(b) Affected ADs

This AD supersedes AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)).

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, all serial numbers (S/N) having a rudder with a part number (P/N) and serial number listed in tables 1, 2, and 3, and figures 1 and 2, and 3 and 4 of this AD; and rudders P/N D554 71000 020 00, S/N TS–1494, and P/N D554 71002 000 00 0002, S/N TS–2212.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

TABLE 1 TO PARAGRAPH (C) OF THIS AD

Rudder P/N	Affected rudder S/N
D554 71000 010 00	TS–1069
D554 71000 010 00	TS–1090
D554 71000 012 00	TS–1227
D554 71000 014 00	TS–1350
D554 71000 014 00	TS–1366
D554 71000 014 00	TS–1371
D554 71000 014 00	TS–1383
D554 71000 014 00	TS–1387
D554 71000 016 00	TS–1412
D554 71000 018 00	TS–1443
D554 71000 018 00	TS–1444
D554 71000 018 00	TS–1468
D554 71000 020 00	TS–1480
D554 71000 020 00	TS–1491
D554 71000 020 00	TS–1495
D554 71000 020 00	TS–1498
D554 71000 020 00	TS–1499
D554 71000 020 00	TS–1500
D554 71000 020 00	TS–1505
D554 71000 020 00	TS–1506
D554 71000 020 00	TS–1507
D554 71000 020 00	TS–1509
D554 71000 020 00	TS–1515
D554 71000 020 00	TS–1528
D554 71000 020 00	TS–1530
D554 71000 020 00	TS–1532
D554 71000 020 00	TS–1535
D554 71000 020 00	TS–1536
D554 71000 020 00	TS–1538
D554 71001 000 00	TS–1537
D554 71001 000 00	TS–1540
D554 71001 000 00	TS–1541
D554 71001 000 00	TS–1543
D554 71001 000 00	TS–1548
D554 71001 000 00	TS–1549
D554 71001 000 00	TS–1551
D554 71001 000 00	TS–1554
D554 71001 000 00	TS–1555
D554 71001 000 00	TS–1556
D554 71001 000 00	TS–1557
D554 71001 000 00	TS–1559
D554 71001 000 00	TS–1562
D554 71001 000 00	TS–1563
D554 71001 000 00	TS–1564
D554 71001 000 00	TS–1565
D554 71001 000 00	TS–1566
D554 71001 000 00	TS–1567
D554 71001 000 00	TS–1568
D554 71001 000 00	TS–1569
D554 71001 000 00	TS–1570
D554 71001 000 00	TS–1573
D554 71001 000 00	TS–1575
D554 71001 000 00	TS–1578
D554 71001 000 00	TS–1579
D554 71001 000 00	TS–1580
D554 71001 000 00	TS–1581
D554 71001 000 00	TS–1582
D554 71001 000 00	TS–1584
D554 71001 000 00	TS–1593
D554 71001 000 00	TS–1594
D554 71001 000 00	TS–1596

TABLE 1 TO PARAGRAPH (C) OF THIS AD—Continued

Rudder P/N	Affected rudder S/N
D554 71001 000 00	TS–1599
D554 71001 000 00	TS–1603
D554 71001 000 00	TS–1609
D554 71001 000 00	TS–1621
D554 71001 000 00	TS–1626
D554 71001 000 00	TS–1627
D554 71001 000 00	TS–1635
D554 71001 000 00	TS–1637
D554 71002 000 00	TS–2306
D554 71002 000 00 0001	TS–2003
D554 71002 000 00 0001	TS–2005
D554 71002 000 00 0001	TS–2013
D554 71002 000 00 0001	TS–2016
D554 71002 000 00 0001	TS–2019
D554 71002 000 00 0001	TS–2020
D554 71002 000 00 0001	TS–2022
D554 71002 000 00 0001	TS–2024
D554 71002 000 00 0001	TS–2026
D554 71002 000 00 0001	TS–2031
D554 71002 000 00 0001	TS–2033
D554 71002 000 00 0001	TS–2043
D554 71002 000 00 0001	TS–2047
D554 71002 000 00 0001	TS–2048
D554 71002 000 00 0001	TS–2054
D554 71002 000 00 0001	TS–2058
D554 71002 000 00 0001	TS–2059
D554 71002 000 00 0001	TS–2064
D554 71002 000 00 0001	TS–2072
D554 71002 000 00 0001	TS–2075
D554 71002 000 00 0001	TS–2076
D554 71002 000 00 0001	TS–2079
D554 71002 000 00 0001	TS–2083
D554 71002 000 00 0001	TS–2089
D554 71002 000 00 0002	TS–2090
D554 71002 000 00 0002	TS–2095
D554 71002 000 00 0002	TS–2103
D554 71002 000 00 0002	TS–2116
D554 71002 000 00 0002	TS–2122
D554 71002 000 00 0002	TS–2133
D554 71002 000 00 0002	TS–2142
D554 71002 000 00 0002	TS–2147
D554 71002 000 00 0002	TS–2157
D554 71002 000 00 0002	TS–2158
D554 71002 000 00 0002	TS–2162
D554 71002 000 00 0002	TS–2167
D554 71002 000 00 0002	TS–2174
D554 71002 000 00 0002	TS–2176
D554 71002 000 00 0002	TS–2181
D554 71002 000 00 0002	TS–2189
D554 71002 000 00 0002	TS–2191
D554 71002 000 00 0002	TS–2203
D554 71002 000 00 0002	TS–2205
D554 71002 000 00 0002	TS–2207
D554 71002 000 00 0002	TS–2224
D554 71002 000 00 0002	TS–2229
D554 71002 000 00 0002	TS–2233
D554 71002 000 00 0002	TS–2241
D554 71002 000 00 0002	TS–2246
D554 71002 000 00 0002	TS–2249
D554 71002 000 00 0002	TS–2270
D554 71002 000 00 0002	TS–2275
D554 71002 000 00 0002	TS–2289
D554 71002 000 00 0002	TS–2290
D554 71002 000 00 0002	TS–2294
D554 71002 000 00 0002	TS–2309
D554 71002 000 00 0002	TS–2347
D554 71002 000 00 0002	TS–2348
D554 71002 000 00 0002	TS–2349
D554 71002 000 00 0002	TS–2357
D554 71002 000 00 0002	TS–2361

TABLE 1 TO PARAGRAPH (C) OF THIS AD—Continued

Rudder P/N	Affected rudder S/N
D554 71002 000 00 0002	TS–2380
D554 71002 000 00 0002	TS–2383
D554 71002 000 00 0002	TS–2390
D554 71002 000 00 0002	TS–2394
D554 71002 000 00 0002	TS–2396
D554 71002 000 00 0002	TS–2401
D554 71002 000 00 0002	TS–2406
D554 71002 000 00 0002	TS–2461
D554 71002 000 00 0002	TS–2468
D554 71002 000 00 0002	TS–2516
D554 71002 000 00 0002	TS–2537
D554 71002 000 00 0002	TS–2543
D554 71002 000 00 0002	TS–2546
D554 71002 000 00 0002	TS–2619
D554 71002 000 00 0002	TS–2684
D554 71002 000 00 0003	TS–2752
D554 71002 000 00 0003	TS–2869
D554 71002 000 00 0003	TS–2876
D554 71002 000 00 0003	TS–2970
D554 71002 000 00 0003	TS–2971
D554 71002 000 00 0003	TS–2987
D554 71004 000 00 0000	TS–3083
D554 71004 000 00 0000	TS–3197

Note 1 to paragraph (c) of this AD: For table 1 to paragraph (c) of this AD, only rudder P/N D554 71000 010 00 having affected rudder S/Ns TS–1069 and TS–1090, and rudder P/N D554 71000 012 00 having affected rudder S/N TS–1227, have a core density of 24 kilogram (kg)/meters cubed (m^3).

TABLE 2 TO PARAGRAPH (C) OF THIS AD

Rudder P/N	Affected rudder S/N
D554–71000–014–00	TS–1278
D554–71002–000–00–0001	TS–2081
D554–71002–000–00–0002	TS–2125
D554–71002–000–00–0002	TS–2129
D554–71002–000–00–0002	TS–2160
D554–71002–000–00–0002	TS–2201
D554–71002–000–00–0002	TS–2328
D554–71002–000–00–0002	TS–2425
D554–71002–000–00–0002	TS–2511
D554–71002–000–00–0003	TS–2768
D554–71002–000–00–0003	TS–2999
D554–71002–000–00–0003	TS–3004
D554–71002–000–00–0003	TS–3051
D554–71004–000–00–0001	TS–3288

TABLE 3 TO PARAGRAPH (C) OF THIS AD

Rudder P/N	Affected rudder S/N
D554–71000–008–00	TS–1032
D554–71000–010–00	TS–1092
D554–71000–014–00	TS–1314
D554–71000–018–00	TS–1445
D554–71000–020–00	TS–1520
D554–71002–000–00–0001	TS–2037
D554–71002–000–00–0002	TS–2109
D554–71002–000–00–0002	TS–2123
D554–71002–000–00–0002	TS–2124
D554–71002–000–00–0002	TS–2424
D554–71002–000–00–0002	TS–2559
D554–71002–000–00–0003	TS–3061
D554–71004–000–00–0001	TS–3694
D554–71004–000–00–0001	TS–3709

TABLE 3 TO PARAGRAPH (C) OF THIS AD—Continued

Rudder P/N	Affected rudder S/N
D554–71004–000–00–0002	TS–4148

Note 2 to paragraph (c) of this AD: For table 3 to paragraph (c) of this AD, only rudder P/N D554–71000–008–00 having affected rudder S/N TS–1032, and rudder P/N D554–71000–010–00 having affected rudder S/N TS–1092, have a core density of 24 kg/m^3.

Figure 1—Rudder P/N With Any S/N Listed in Figure 2 of This AD

RUDDER P/N WITH ANY S/N LISTED IN FIGURE 2 OF THIS AD

D5547100000000
D5547100000200
D5547100000400
D5547100000600
D5547100000800
D5547100001000
D5547100001200
D5547100001400
D5547100001600
D5547100001800
D5547100002000
D5547100100000
D5547100200000
D5547100300000
D5547100400000

Figure 2—Affected S/Ns for Rudders Listed in Figure 1 of This AD

AFFECTED S/N FOR RUDDERS LISTED IN FIGURE 1 OF THIS AD

TS–1368	TS–1616	TS–2080	TS–2159	TS–2222	TS–2276	TS–2327
TS–1389	TS–1619	TS–2082	TS–2163	TS–2223	TS–2279	TS–2330
TS–1496	TS–1622	TS–2084	TS–2168	TS–2227	TS–2280	TS–2331
TS–1501	TS–1632	TS–2085	TS–2169	TS–2228	TS–2281	TS–2332
TS–1503	TS–1639	TS–2086	TS–2170	TS–2230	TS–2284	TS–2333
TS–1508	TS–2004	TS–2094	TS–2172	TS–2231	TS–2285	TS–2334
TS–1516	TS–2008	TS–2096	TS–2175	TS–2232	TS–2286	TS–2336
TS–1527	TS–2010	TS–2097	TS–2177	TS–2234	TS–2293	TS–2337
TS–1529	TS–2012	TS–2098	TS–2179	TS–2235	TS–2297	TS–2338
TS–1534	TS–2014	TS–2100	TS–2182	TS–2236	TS–2298	TS–2339
TS–1545	TS–2017	TS–2101	TS–2183	TS–2238	TS–2299	TS–2340
TS–1547	TS–2018	TS–2106	TS–2185	TS–2240	TS–2302	TS–2341
TS–1553	TS–2023	TS–2113	TS–2192	TS–2242	TS–2303	TS–2343
TS–1560	TS–2025	TS–2115	TS–2193	TS–2244	TS–2304	TS–2346
TS–1561	TS–2029	TS–2118	TS–2195	TS–2245	TS–2305	TS–2352
TS–1571	TS–2032	TS–2126	TS–2199	TS–2248	TS–2307	TS–2353
TS–1572	TS–2034	TS–2130	TS–2200	TS–2250	TS–2310	TS–2354
TS–1574	TS–2039	TS–2131	TS–2204	TS–2251	TS–2311	TS–2355
TS–1576	TS–2040	TS–2132	TS–2206	TS–2252	TS–2312	TS–2356
TS–1577	TS–2041	TS–2134	TS–2208	TS–2254	TS–2313	TS–2358
TS–1583	TS–2046	TS–2136	TS–2209	TS–2258	TS–2315	TS–2360
TS–1585	TS–2050	TS–2140	TS–2210	TS–2259	TS–2316	TS–2362
TS–1588	TS–2051	TS–2143	TS–2211	TS–2260	TS–2319	TS–2363
TS–1591	TS–2052	TS–2144	TS–2213	TS–2261	TS–2320	TS–2364
TS–1600	TS–2053	TS–2145	TS–2216	TS–2262	TS–2321	TS–2365
TS–1602	TS–2056	TS–2149	TS–2217	TS–2265	TS–2322	TS–2366
TS–1607	TS–2060	TS–2152	TS–2218	TS–2268	TS–2323	TS–2367
TS–1608	TS–2069	TS–2154	TS–2220	TS–2271	TS–2325	TS–2370
TS–1614	TS–2070	TS–2155	TS–2221	TS–2272	TS–2326	TS–2371
TS–2372	TS–2483	TS–2583	TS–2665	TS–2743	TS–2813	TS–2878
TS–2373	TS–2484	TS–2584	TS–2666	TS–2744	TS–2814	TS–2879

AFFECTED S/N FOR RUDDERS LISTED IN FIGURE 1 OF THIS AD—Continued

TS–2374	TS–2486	TS–2585	TS–2667	TS–2745	TS–2815	TS–2880
TS–2377	TS–2488	TS–2586	TS–2668	TS–2747	TS–2816	TS–2881
TS–2381	TS–2491	TS–2587	TS–2671	TS–2749	TS–2818	TS–2882
TS–2382	TS–2493	TS–2590	TS–2674	TS–2751	TS–2819	TS–2885
TS–2387	TS–2494	TS–2591	TS–2675	TS–2753	TS–2821	TS–2886
TS–2388	TS–2498	TS–2592	TS–2676	TS–2754	TS–2822	TS–2890
TS–2392	TS–2499	TS–2593	TS–2677	TS–2755	TS–2823	TS–2891
TS–2393	TS–2501	TS–2596	TS–2679	TS–2756	TS–2824	TS–2892
TS–2395	TS–2505	TS–2597	TS–2680	TS–2757	TS–2826	TS–2893
TS–2397	TS–2506	TS–2601	TS–2681	TS–2758	TS–2827	TS–2896
TS–2398	TS–2508	TS–2602	TS–2682	TS–2759	TS–2828	TS–2897
TS–2399	TS–2510	TS–2603	TS–2683	TS–2760	TS–2830	TS–2898
TS–2407	TS–2512	TS–2605	TS–2685	TS–2762	TS–2831	TS–2899
TS–2408	TS–2514	TS–2606	TS–2688	TS–2765	TS–2832	TS–2900
TS–2409	TS–2517	TS–2611	TS–2689	TS–2771	TS–2833	TS–2903
TS–2410	TS–2518	TS–2612	TS–2691	TS–2772	TS–2834	TS–2904
TS–2411	TS–2521	TS–2614	TS–2695	TS–2773	TS–2835	TS–2906
TS–2412	TS–2522	TS–2615	TS–2697	TS–2775	TS–2836	TS–2907
TS–2415	TS–2527	TS–2616	TS–2698	TS–2776	TS–2837	TS–2908
TS–2417	TS–2529	TS–2617	TS–2699	TS–2778	TS–2838	TS–2909
TS–2421	TS–2532	TS–2620	TS–2700	TS–2779	TS–2839	TS–2910
TS–2422	TS–2536	TS–2625	TS–2701	TS–2780	TS–2840	TS–2911
TS–2423	TS–2540	TS–2626	TS–2707	TS–2782	TS–2843	TS–2913
TS–2427	TS–2544	TS–2628	TS–2710	TS–2783	TS–2844	TS–2914
TS–2428	TS–2545	TS–2629	TS–2711	TS–2784	TS–2845	TS–2916
TS–2435	TS–2547	TS–2630	TS–2712	TS–2785	TS–2846	TS–2917
TS–2437	TS–2551	TS–2631	TS–2713	TS–2786	TS–2848	TS–2919
TS–2440	TS–2552	TS–2632	TS–2714	TS–2788	TS–2849	TS–2920
TS–2444	TS–2553	TS–2634	TS–2716	TS–2790	TS–2850	TS–2922
TS–2446	TS–2554	TS–2635	TS–2717	TS–2791	TS–2851	TS–2923
TS–2447	TS–2555	TS–2636	TS–2719	TS–2792	TS–2852	TS–2924
TS–2453	TS–2558	TS–2637	TS–2722	TS–2793	TS–2853	TS–2925
TS–2455	TS–2562	TS–2640	TS–2724	TS–2794	TS–2854	TS–2927
TS–2458	TS–2563	TS–2641	TS–2725	TS–2795	TS–2855	TS–2928
TS–2460	TS–2566	TS–2642	TS–2726	TS–2796	TS–2856	TS–2929
TS–2463	TS–2568	TS–2644	TS–2727	TS–2797	TS–2857	TS–2930
TS–2466	TS–2570	TS–2647	TS–2728	TS–2799	TS–2860	TS–2932
TS–2467	TS–2571	TS–2648	TS–2732	TS–2801	TS–2861	TS–2933
TS–2471	TS–2572	TS–2650	TS–2734	TS–2803	TS–2862	TS–2934
TS–2472	TS–2573	TS–2651	TS–2735	TS–2804	TS–2863	TS–2935
TS–2474	TS–2574	TS–2653	TS–2736	TS–2805	TS–2864	TS–2937
TS–2476	TS–2575	TS–2656	TS–2738	TS–2807	TS–2865	TS–2938
TS–2477	TS–2576	TS–2657	TS–2739	TS–2808	TS–2868	TS–2939
TS–2478	TS–2579	TS–2658	TS–2740	TS–2810	TS–2872	TS–2943
TS–2481	TS–2580	TS–2659	TS–2741	TS–2811	TS–2874	TS–2944
TS–2482	TS–2581	TS–2662	TS–2742	TS–2812	TS–2877	TS–2946
TS–2948	TS–3040	TS–3113	TS–3177	TS–3249	TS–3689	TS–3928
TS–2949	TS–3043	TS–3114	TS–3178	TS–3250	TS–3690	TS–3936
TS–2950	TS–3046	TS–3116	TS–3179	TS–3251	TS–3695	TS–3939
TS–2951	TS–3049	TS–3119	TS–3180	TS–3252	TS–3699	TS–3942
TS–2953	TS–3050	TS–3120	TS–3181	TS–3253	TS–3702	TS–3950
TS–2954	TS–3052	TS–3121	TS–3182	TS–3255	TS–3703	TS–3958
TS–2955	TS–3054	TS–3122	TS–3183	TS–3256	TS–3704	TS–3961
TS–2957	TS–3055	TS–3123	TS–3184	TS–3257	TS–3706	TS–3968
TS–2958	TS–3056	TS–3124	TS–3185	TS–3259	TS–3708	TS–3987
TS–2959	TS–3058	TS–3125	TS–3186	TS–3262	TS–3710	TS–3993
TS–2960	TS–3060	TS–3126	TS–3188	TS–3271	TS–3717	TS–3995
TS–2962	TS–3065	TS–3127	TS–3189	TS–3276	TS–3718	TS–4003
TS–2964	TS–3066	TS–3129	TS–3191	TS–3278	TS–3734	TS–4027
TS–2965	TS–3071	TS–3131	TS–3193	TS–3282	TS–3743	TS–4031
TS–2968	TS–3072	TS–3132	TS–3194	TS–3286	TS–3761	TS–4087
TS–2969	TS–3074	TS–3133	TS–3195	TS–3289	TS–3772	TS–4099
TS–2973	TS–3075	TS–3134	TS–3198	TS–3290	TS–3780	TS–4118
TS–2976	TS–3076	TS–3135	TS–3200	TS–3291	TS–3789	TS–4145
TS–2980	TS–3077	TS–3138	TS–3201	TS–3292	TS–3805	TS–4146
TS–2984	TS–3078	TS–3139	TS–3202	TS–3295	TS–3820	TS–4147
TS–2985	TS–3079	TS–3140	TS–3204	TS–3297	TS–3821	TS–4163
TS–2986	TS–3080	TS–3141	TS–3205	TS–3306	TS–3822	TS–4167
TS–2988	TS–3081	TS–3142	TS–3207	TS–3309	TS–3824	TS–4175
TS–2991	TS–3082	TS–3143	TS–3210	TS–3310	TS–3825	TS–4178
TS–2998	TS–3084	TS–3144	TS–3215	TS–3317	TS–3839	TS–4181
TS–3001	TS–3087	TS–3145	TS–3216	TS–3320	TS–3841	TS–4186
TS–3002	TS–3088	TS–3148	TS–3217	TS–3328	TS–3843	TS–4195
TS–3003	TS–3089	TS–3149	TS–3218	TS–3388	TS–3844	TS–4212

AFFECTED S/N FOR RUDDERS LISTED IN FIGURE 1 OF THIS AD—Continued

TS–3005	TS–3090	TS–3151	TS–3219	TS–3392	TS–3846	TS–4232
TS–3006	TS–3091	TS–3154	TS–3221	TS–3395	TS–3849	TS–4271
TS–3009	TS–3093	TS–3155	TS–3222	TS–3429	TS–3850	TS–4331
TS–3011	TS–3094	TS–3156	TS–3223	TS–3441	TS–3851	TS–4345
TS–3016	TS–3096	TS–3158	TS–3224	TS–3516	TS–3853	TS–4366
TS–3018	TS–3097	TS–3159	TS–3226	TS–3561	TS–3855	TS–4396
TS–3020	TS–3098	TS–3160	TS–3227	TS–3567	TS–3857	TS–4401
TS–3021	TS–3100	TS–3161	TS–3232	TS–3574	TS–3860	TS–4420
TS–3025	TS–3101	TS–3162	TS–3234	TS–3590	TS–3862	TS–4461
TS–3026	TS–3102	TS–3164	TS–3235	TS–3591	TS–3863	TS–4480
TS–3027	TS–3103	TS–3166	TS–3236	TS–3595	TS–3871	TS–4636
TS–3028	TS–3104	TS–3167	TS–3237	TS–3598	TS–3878	TS–4651
TS–3030	TS–3105	TS–3168	TS–3240	TS–3609	TS–3879	TS–4678
TS–3031	TS–3106	TS–3169	TS–3241	TS–3625	TS–3882	TS–4696
TS–3032	TS–3107	TS–3170	TS–3242	TS–3638	TS–3883	TS–4770
TS–3033	TS–3108	TS–3171	TS–3243	TS–3650	TS–3885	N/A
TS–3034	TS–3109	TS–3172	TS–3244	TS–3669	TS–3910	N/A
TS–3035	TS–3110	TS–3174	TS–3245	TS–3684	TS–3914	N/A
TS–3037	TS–3111	TS–3175	TS–3247	TS–3685	TS–3921	N/A
TS–3038	TS–3112	TS–3176	TS–3248	TS–3687	TS–3924	N/A

Figure 3—Rudder P/N With Any S/N Listed in Figure 4 of This AD

RUDDER P/N WITH ANY S/N LISTED IN FIGURE 4 OF THIS AD
D5547100000000
D5547100000200
D5547100000400
D5547100000600
D5547100000800
D5547100001000
D5547100001200
D5547100001400
D5547100001600
D5547100001800
D5547100002000
D5547100100000
D5547100200000
D5547100300000
D5547100400000

Figure 4—Rudder S/N With Any P/N Listed in Figure 3 of This AD

RUDDER S/N WITH ANY P/N LISTED IN FIGURE 3 OF THIS AD
TS–2141
TS–2269
TS–2274
TS–2295
TS–2317
TS–2664
TS–2715

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by reports of surface defects on rudders that were the result of debonding between the skin and honeycomb core. We are issuing this AD to detect and correct extended de-bonding, which might degrade the structural integrity of the rudder. The loss of the rudder leads to degradation of the handling qualities and reduces the controllability of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Repetitive Inspections of Rudders With a Core Density of 24 kg/m^3

This paragraph restates the requirements of paragraph (g) of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). For rudders identified in table 1 to paragraph (c) of this AD with a honeycomb core density of 24 kg/m^3 (rudder P/N D554 71000 010 00 having affected rudder S/Ns TS–1069 and TS–1090, and rudder P/N D554 71000 012 00 having affected rudder S/N TS–1227), do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), and (g)(4) of this AD, in accordance with Airbus All Operators Telex (AOT) A320–55A1038, Revision 01, dated June 10, 2009; or Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009; for the locations defined in the applicable AOT specified in this paragraph.

(1) Within 200 days after December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Perform a vacuum loss inspection on the rudder reinforced area.

(2) Within 20 months after December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Perform an elasticity laminate checker (ELCH) inspection on the rudder trailing edge area. Repeat the inspection two times, at intervals not to exceed 4,500 flight cycles, but not sooner than 4,000 flight cycles after the last inspection.

(3) Within 200 days after December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Perform an ELCH inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Repeat the inspection at intervals not to exceed 1,500 flight cycles or 200 days, whichever comes first.

(4) Within 20 months after December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Perform a vacuum loss inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Accomplishment of the action specified in paragraph (g)(4) of this AD terminates the requirements of paragraph (g)(3) of this AD.

(h) Retained Repetitive Inspections of Rudders Without a Core Density of 24 kg/m^3

This paragraph restates the requirements of paragraph (h) of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). For rudders that do not have a honeycomb core density of 24 kg/m^3 (all rudders identified in table 1 to paragraph (c) of this AD, except rudder P/N D554 71000 010 00 having affected rudder S/Ns TS–1069 and TS–1090, and rudder P/N D554 71000 012 00 having affected rudder S/N TS–1227), do the actions specified in paragraphs (h)(1), (h)(2), (h)(3), and (h)(4) of this AD, in accordance with Airbus AOT A320–55A1038, Revision 01, dated June 10, 2009; or Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009; for the locations defined in the applicable AOT specified in this paragraph. As of the effective date of this AD, use only Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. For this paragraph, ''reference date'' is defined as December 10, 2010 (the effective date of AD 2010–23–07), or the date when the rudder will accumulate 20,000 total flight cycles from its first installation on an airplane, whichever occurs later.

(1) Within 200 days after the reference date, perform a vacuum loss inspection on the rudder reinforced area.

(2) Within 20 months after the reference date, perform an ELCH inspection on the rudder trailing edge area. Repeat the inspection two times at intervals not to exceed 4,500 flight cycles, but not sooner

than 4,000 flight cycles after the last inspection.

(3) Within 200 days after the reference date, perform an ELCH inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Repeat the inspection at intervals not to exceed 1,500 flight cycles or 200 days, whichever comes first.

(4) Within 20 months after the reference date, perform a vacuum loss inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Accomplishment of the actions specified in this paragraph terminates the requirements of paragraph (h)(3) of this AD.

(i) Retained Corrective Actions for De-Bonding

This paragraph restates the requirements of paragraph (i) of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). In case of de-bonding found during any inspection required by paragraph (g) or (h) of this AD, before further flight, contact Airbus for further instructions and apply the associated instructions and corrective actions in accordance with the approved data provided, or repair the debonding using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent). After the effective date of this AD, repair the debonding using only a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(j) Retained Reporting for Findings From Actions Required by Paragraphs (g) and (h) of This AD

This paragraph restates the requirements of paragraph (j) of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD, submit a report of the findings (both positive and negative) of each inspection required by paragraphs (g) and (h) of this AD. The report must include the inspection results, as specified in Airbus Technical Disposition TD/K4/S2/27086/2009, Issue E, dated September 17, 2009. For positive findings, submit the report to either the Manager, Seer1/Seer2/Seer3 Customer Services, fax +33 (0)5 61 93 28 73, email *region1.structurerepairsupport@airbus.com, region2.structurerepairsupport@airbus.com,* or *region3.structurerepairsupport@airbus.com;* or AIRTAC (Airbus Technical AOG Center) Customer Services, telephone +33 (0)5 61 93 34 00, fax +33 (0)5 61 93 35 00, email *airtac@airbus.com*. For negative findings, submit the report to Nicolas Seynaeve, Sees1, Customer Services; telephone +33 (0)5 61 93 34 38; fax +33 (0)5 61 93 36 14; email *nicolas.seynaeve@airbus.com;* except, as of the effective date of this AD, only submit the report to SEES1, Customer Services, fax +33 (0)5 61 93 36 14.

(1) For any inspection done on or after December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Submit the report within 30 days after the inspection.

(2) For any inspection done before December 10, 2010 (the effective date of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010))): Submit the report within 30 days after December 10, 2010.

(k) Retained Inspection in Additional Areas

This paragraph restates the provisions of paragraph (k) of AD 2010–23–07, Amendment 39–16496, ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). All rudders that have passed the inspection specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (h)(1), (h)(2), (h)(3), and (h)(4) of this AD before December 10, 2010 (the effective date of AD 2010–23–07), in accordance with Airbus AOT A320–55A1038, dated April 22, 2009; or Airbus Technical Disposition TD/K4/S2/27051/2009, Issue B, dated February 25, 2009; are compliant with this AD only for the areas inspected. Additional areas defined in Section 0, ''Reason for Revision,'' of Airbus AOT A320–55A1038, Revision 01, dated June 10, 2009; or Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009; must be inspected as specified in paragraph (g) or (h) of this AD. For all areas, the repetitive inspections required by paragraph (g) or (h) of this AD remain applicable.

(l) Retained Parts Installation Limitations

This paragraph restates the requirements of paragraph (l) of AD 2010–23–07, Amendment 39–16496 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)). After December 10, 2010 (the effective date of AD 2010–23–07), no rudder listed in table 1 to paragraph (c) of this AD may be installed on any airplane, unless the rudder is inspected in accordance with paragraph (g) or (h) of this AD, as applicable, and all applicable actions specified in paragraph (i) of this AD are done.

(m) New Restoration of Vacuum Loss Holes

If no de-bonding is found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, restore the vacuum loss holes by doing a permanent restoration with resin, in accordance with Note 3 of Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. Before doing the resin injection, do a local ultrasound inspection in reinforced areas, and a thermography inspection in other areas, for damage, in accordance with Note 3 of Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. If any damage is found during any inspection required by this paragraph: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(n) New X-Ray, ELCH, Vacuum Loss, or Thermography Inspection

For rudders identified in table 2 to paragraph (c) of this AD, do the actions specified in paragraphs (n)(1) and (n)(2) of this AD, in accordance with Airbus AOT A320–55A1039, dated November 4, 2009, for the locations defined in that AOT. For this paragraph, ''reference date'' is defined as the effective date of this AD or the date when the rudder will accumulate 20,000 total flight cycles from its first installation on an airplane, whichever occurs later.

(1) Within 20 months after the effective date of this AD, or within 200 days after the reference date, whichever occurs first: Perform x-ray, and/or ELCH, and/or vacuum loss, and/or thermography inspections for damage, as applicable to rudder part number and serial number, in accordance with the instructions of paragraph 4.2.2.1.1. of Airbus AOT A320–55A1039, dated November 4, 2009.

(2) At the applicable time specified in paragraph (n)(2)(i) or (n)(2)(ii) of this AD, send the developed x-ray films and the film layout arrangement, if applicable, to Attn: SDC32 Technical Data and Documentation Services, Airbus Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; fax (+33) 5 61 93 28 06; email *sb.reporting@airbus.com*.

(i) If the inspection was done on or after the effective date of this AD: Submit the x-ray films and the film layout arrangement within 10 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the x-ray films and the film layout arrangement within 10 days after the effective date of this AD.

(3) If any damage is found during any inspection required by paragraph (n) of this AD: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(o) New ELCH Inspection, Vacuum Loss Inspection, and Repairs

For rudders identified in table 2 to paragraph (c) of this AD: Within 1,500 flight cycles or 200 days after doing the requirements of paragraph (n)(1) of this AD, whichever occurs first, do the actions specified in paragraphs (o)(1) and (o)(2) of this AD.

(1) Perform an ELCH inspection for damage on the rudder trailing edge area, in accordance with the instructions of paragraph 4.2.2.1.2. of Airbus AOT A320–55A1039, dated November 4, 2009. In case of no finding, repeat the inspection two times, at intervals not to exceed 4,500 flight cycles but not sooner than 4,000 flight cycles after the last inspection.

(2) Perform a vacuum loss inspection for damage of the other areas (splice/lower rib/upper edge/leading edge/other specified locations), in accordance with the instructions of paragraph 4.2.2.1.2. of Airbus AOT A320–55A1039, dated November 4, 2009.

(3) If any damage is found during any inspection required by paragraph (o) of this AD: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(p) New Restorations/Inspections/Repairs of Certain Vacuum Loss Holes for Certain Rudders

If no damage is found during any inspection required by paragraph (o) of this AD: Before further flight, restore the vacuum loss holes by doing a permanent restoration with resin, in accordance with Note 3 of Airbus AOT A320–55A1039, dated November 4, 2009. Before doing the resin injection, do a local ultrasound inspection in reinforced areas, and a thermography inspection in other areas, for damage, in accordance with Note 3 of Airbus AOT A320–55A1039, dated November 4, 2009. If any damage is found during any inspection required by this paragraph: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(q) New Rudder Replacement for Rudders Identified in Table 3 to Paragraph (c) of This AD

For rudders identified in table 3 to paragraph (c) of this AD, do the actions specified in paragraphs (q)(1) and (q)(2) of this AD, in accordance with the instructions of Airbus AOT A320–55A1039, dated November 4, 2009, for the locations defined in that AOT. For this paragraph, ''reference date'' is defined as the effective date of this AD or the date when the rudder will accumulate 20,000 total flight cycles from its first installation on an airplane, whichever occurs later.

(1) For rudders identified in table 3 to paragraph (c) of this AD with a honeycomb core density of 24 kg/m^3 (rudder P/N D554–71000–008–00 having affected rudder S/N TS–1032 and rudder P/N D554–71000–010–00 having affected rudder S/N TS–1092): Within 200 days after the effective date of this AD, replace the rudder with a new rudder, in accordance with a method approved by the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(2) For rudders identified in table 3 to paragraph (c) of this AD that do not have a honeycomb core density of 24 kg/m^3 (all except rudder P/N D554–71000–008–00 having affected rudder S/N TS–1032 and rudder P/N D554–71000–010–00 having affected rudder S/N TS–1092): Within 20 months after the effective date of this AD or within 200 days after the reference date, whichever occurs first, replace the rudder with a new rudder, in accordance with a method approved by the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(r) New Vacuum Loss Inspection for Reinforced Areas of Rudder Identified in Figures 1 and 2 of This AD

For rudders identified in figures 1 and 2 of this AD: At the later of the times specified in paragraphs (r)(1) and (r)(2) of this AD, perform a vacuum loss inspection on the rudder reinforced area for damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes).

(1) Before the rudder accumulates 17,000 total flight cycles from its first installation on an airplane without exceeding 20 months from the effective date of this AD.

(2) Within 200 days after the effective date of this AD.

(s) New ELCH Inspection for Rudder Trailing Edge Area

For rudders identified in figures 1 and 2 of this AD: Within 20 months after the effective date of this AD, perform an ELCH inspection for damage on the rudder trailing edge area, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). Repeat the inspection two times at intervals not to exceed 4,500 flight cycles, but not sooner than 4,000 flight cycles after the last inspection.

(t) New ELCH Inspection for Additional Rudder Areas

For rudders identified in figures 1 and 2 of this AD: At the later of the times specified in paragraphs (t)(1) and (t)(2) of this AD, perform an ELCH inspection for damage of the other areas (splice/lower rib/upper edge/leading edge/other specified locations) for damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). Repeat the inspection thereafter at intervals not to exceed 1,500 flight cycles or 200 days, whichever comes first.

(1) Before the rudder accumulates 17,000 total flight cycles from its first installation on an airplane without exceeding 20 months from the effective date of this AD.

(2) Within 200 days after the effective date of this AD.

(u) New Vacuum Loss Inspection for Certain Areas of Rudders Identified in Figures 1 and 2 of This AD

For rudders identified in figures 1 and 2 of this AD: Within 20 months after the effective date of this AD, perform a vacuum loss inspection for damage of the lower rib, upper edge, leading edge, and other specified locations, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). Accomplishment of the actions specified in this paragraph terminates the requirements of paragraph (t) of this AD.

(v) New Corrective Actions for Certain Inspections

In case of damage found during any inspection required by paragraph (r), (s), (t), or (u) of this AD: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(w) New Restorations/Inspections/Repairs of Certain Vacuum Loss Holes for Certain Other Rudders

If no damage is found during any inspection required by paragraph (r) or (u) of this AD: Before further flight, restore the vacuum loss holes by doing a permanent restoration with resin, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). Before doing the resin injection, do a local ultrasound inspection in reinforced areas, and a thermography inspection in other areas, for damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). If any damage is found during any inspection required by this paragraph: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(x) Credit for Certain Previous Actions

This paragraph provides credit for the inspections required by paragraphs (r), (s), (t), (u), and (w) of this AD only for the inspected area for rudders identified in figures 1 and 2 of this AD, if the area passed the inspection before the effective date of this AD using Airbus Service Bulletin A320–55–1035, dated February 17, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, dated February 17, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, dated February 17, 2010 (for Model A319 series airplanes); which are not incorporated by reference in this AD. For all other inspected areas, the repetitive inspections required by paragraph (s), (t), and (w) of this AD are still required.

(y) New ELCH Inspection and Repairs for Certain Rudders

For rudders identified in figures 3 and 4 of this AD: Within 4,500 flight cycles but not sooner than 4,000 flight cycles after the sampling inspection, or within 30 days after

the effective date of this AD, whichever occurs later, perform an ELCH inspection for damage on the rudder trailing edge area, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010 (for Model A319 series airplanes). Repeat the inspection within 4,500 flight cycles, but not sooner than 4,000 flight cycles after the last inspection. If any damage is found during any inspection required by paragraph (y) of this AD: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(z) Credit for Certain Other Previous Actions

This paragraph provides credit for the inspection required by paragraph (y) of this AD only for the inspected area for rudders identified in figures 3 and 4 of this AD if the area passed the inspection before the effective date of this AD using Airbus Service Bulletin A320–55–1035, dated February 17, 2010 (for Model A320 series airplanes); Airbus Service Bulletin A320–55–1036, dated February 17, 2010 (for Model A318 and A321 series airplanes); or Airbus Service Bulletin A320–55–1037, dated February 17, 2010 (for Model A319 series airplanes); which are not incorporated by reference in this AD. For all inspection areas, the repetitive inspections required by paragraph (y) of this AD are still required.

(aa) New Repetitive Inspections of Certain Rudders

For rudders P/N D554 71000 020 00, S/N TS–1494; and P/N D554 71002 000 00 0002, S/N TS–2212: Do the actions specified in paragraphs (aa)(1), (aa)(2), (aa)(3), and (aa)(4) of this AD, in accordance with Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. For this paragraph, ''reference date'' is defined as the date when the rudder will accumulate 20,000 total flight cycles from its first installation on an airplane.

(1) Within 200 days after the reference date, perform a vacuum loss inspection on the rudder reinforced area.

(2) Within 20 months after the reference date, perform an ELCH inspection on the rudder trailing edge area. Repeat the inspection two times at intervals not to exceed 4,500 flight cycles, but not sooner than 4,000 flight cycles, after the last inspection.

(3) Within 200 days after the reference date, perform an ELCH inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Repeat the inspection at intervals not to exceed 1,500 flight cycles or 200 days, whichever comes first.

(4) Within 20 months after the reference date, perform a vacuum loss inspection of the other areas (splice/lower rib/upper edge/leading edge/other specified locations). Accomplishment of the actions specified in this paragraph terminates the requirements of paragraph (h)(3) of this AD.

(bb) New De-Bonding Corrective Actions

In case of de-bonding found during any inspection required by paragraph (aa) of this AD: Before further flight, contact Airbus for further instructions and apply the associated instructions and corrective actions in accordance with the approved data provided.

(cc) New Restoration of Vacuum Loss Holes

If no de-bonding is found during any inspection required by paragraph (aa) of this AD: Before further flight, restore the vacuum loss holes by a permanent restoration with resin, in accordance with Note 3 of Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. Before doing the resin injection, do a local ultrasound inspection in reinforced areas, and a thermography inspection in other areas, for damage, in accordance with Note 3 of Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. If any damage is found during any inspection required by this paragraph: Before further flight, repair the damage using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(dd) New Reporting for Paragraphs (n), (o), (r), (s), (t), (u), (y), and (aa) of This AD

At the applicable time specified in paragraph (dd)(1) or (dd)(2) of this AD, submit a report of the findings (both positive and negative) of each inspection required by paragraphs (n), (o), (r), (s), (t), (u), (y), and (aa) of this AD. The report must include the inspection results, as specified in Airbus Technical Disposition TD/K4/S2/27086/2009, Issue E, dated September 17, 2009. For positive findings, submit the report to either the Manager, Seer1/Seer2/Seer3 Customer Services, fax +33 (0)5 61 93 28 73, email *region1.structurerepairsupport@airbus.com, region2.structurerepairsupport@airbus.com,* or *region3.structurerepairsupport@airbus.com;* or AIRTAC (Airbus Technical AOG Center) Customer Services, telephone +33 (0)5 61 93 34 00, fax +33 (0)5 61 93 35 00, email *airtac@airbus.com.* For negative findings, submit the report to SEES1, Customer Services, fax +33 (0)5 61 93 36 14.

(1) For any inspection done on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) For any inspection done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

(ee) New Parts Installation Limitation

As of the effective date of this AD, no rudder listed in table 1, 2, or 3 of this AD; or figure 1, 2, 3, or 4 of this AD; or a rudder identified in paragraph (ee)(1) or (ee)(2) of this AD; may be installed on any airplane, unless the rudder is in compliance with the requirements of this AD.

(1) P/N D554 71000 020 00; S/N TS–1494.

(2) P/N D554 71002 000 00 0002; S/N TS–2212.

(ff) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing, and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(gg) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2010–0164, dated August 5, 2010, for related information.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraph (hh)(5) and (hh)(6) of this AD.

(hh) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on July 26, 2013.

(i) Airbus All Operators Telex (AOT) A320–55A1038, dated April 22, 2009. The

first page of this document contains the document number and date; no other pages contain this information.

(ii) Airbus AOT A320–55A1039, dated November 4, 2009. The first page of this document contains the document number and date; no other pages contain this information.

(iii) Airbus Service Bulletin A320–55–1035, Revision 01, dated July 2, 2010.

(iv) Airbus Service Bulletin A320–55–1036, Revision 01, dated July 2, 2010.

(v) Airbus Service Bulletin A320–55–1037, Revision 01, dated July 2, 2010.

(vi) Airbus Technical Disposition TD/K4/S2/27051/2009, Issue B, dated February 25, 2009.

(4) The following service information was approved for IBR on December 10, 2010 ((75 FR 68181, November 5, 2010); corrected (75 FR 78883, December 17, 2010)).

(i) Airbus AOT A320–55A1038, Revision 01, dated June 10, 2009. The first page of this document contains the document number, revision level, and date; no other pages contain this information.

(ii) Airbus AOT A320–55A1038, Revision 02, dated September 28, 2009. The first page of this document contains the document number, revision level, and date; no other pages contain this information.

(iii) Airbus Technical Disposition TD/K4/S2/27086/2009, Issue E, dated September 17, 2009. The first page of this document contains the document number, revision level, and date; no other pages contain this information.

(5) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 1, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14698 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1305; Directorate Identifier 2010–SW–041–AD; Amendment 39–17475; AD 2013–11–15]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter Deutschland GmbH (Eurocopter) Model BO–105A, BO–105C, BO–105S, BO–105LS A–1, BO–105LS A–3, EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2, EC135 T2+, MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, and MBB–BK 117 C–2 helicopters with certain part-numbered cantilever assemblies, cyclic stick locking devices, or cyclic stick holder assemblies installed. This AD requires modifying and identifying the cyclic stick cantilever or lock. This AD was prompted by pilots inadvertently taking off with the cyclic locked. The actions of this AD are intended to prevent a pilot taking off with the cyclic in the locked position, which could result in loss of control of the helicopter.

DATES: This AD is effective July 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of July 26, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On January 10, 2013, at 78 FR 2223, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Eurocopter Model BO–105A, BO–105C, BO–105S, BO–105LS A–1, BO–105LS A–3, EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2, EC135 T2+, MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, MBB–BK 117 C–1, and MBB–BK 117 C–2 helicopters with certain part-numbered cantilever assemblies, cyclic stick locking devices, or cyclic stick holder assemblies installed. The NPRM proposed to require modifying and identifying the cyclic stick cantilever or lock. The proposed requirements were intended to prevent a pilot taking off with the cyclic in the locked position, which could result in loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2008–0113, dated June 10, 2008, to correct an unsafe condition for the Model EC135, EC635 and MBB–BK 117 C–2 helicopters. EASA advises of several cases where takeoff was executed with a locked cyclic stick on EC135 series helicopters, which may lead to loss of control of the helicopter. EASA also advises that the stick-locking device installed on Model BO 105 and MBB–BK 117C–2 helicopters has a similar function as the device installed on the EC135 series helicopters. Therefore, EASA issued AD No. 2009–0079, dated April 1, 2009, to require modification of the cyclic-stick locking/centering device for the Model BO 105 and MBB–BK 117 helicopters.

After EASA AD No. 2009–0079 was issued, type design ownership for the Model BO–105 LS A3 was transferred from Canada to Germany. Because

Transport Canada had not issued an AD prior to the transfer, EASA superseded AD No. 2009–0079 with AD No. 2010–0049, dated March 19, 2010, to include Model BO–105 LS A3 in its applicability. The EASA ADs also require amending the applicable Rotorcraft Flight Manual (RFM).

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 2223, January 10, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

This AD does not apply to Model BO–105D, BO–105DB, BO–105DB–4, BO–105DBS–4, BO–105DBS–5, BO–105DS or the military Model EC635 helicopters because these models are not type certificated in the United States. The EASA AD requires amending the RFM; this AD does not because the RFM revisions have been incorporated by the type certificate holder.

Related Service Information

Eurocopter has issued the following alert service bulletins (ASB) for each of its model helicopters:

- ASB BO105–40–106, dated December 19, 2008, for all Model BO105 helicopters, except Model BO105 CB–3.
- ASB–BO 105 LS 40–10, dated May 8, 2009, for all Model BO 105 LS A–3 helicopters.
- ASB EC135–67A–015, dated April 14, 2008, for certain serial-numbered Model EC135 and EC635 helicopters.
- ASB–MBB–BK117–40–113, dated December 22, 2008, for all Model MBB–BK117 Models A–1, A–3, A–4, B–1, B–2, C–1.
- ASB MBB BK117 C–2–67A–008, dated April 14, 2008, for certain serial-numbered Model MBB BK117 C–2 helicopters.

These ASBs specify procedures to modify the cantilever assembly or the cyclic stick locking device, which allows neutral positioning and centering of the cyclic stick without the locking feature.

Costs of Compliance

We estimate that this AD will affect 416 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this proposed AD. It will take about .5 work hour to modify the cyclic stick lock at $85 per work hour with no cost for parts. This results in a total estimated cost of $43 per helicopter and $17,680 for the fleet.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on helicopters identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–11–15 Eurocopter Deutschland GmbH: Amendment 39–17475; Docket No. FAA–2012–1305; Directorate Identifier 2010–SW–041–AD.

(a) Applicability

This AD applies to the following Eurocopter Deutschland GmbH (Eurocopter) model helicopters, with a listed cantilever assembly, cyclic stick locking device, or cyclic stick holder assembly part number (P/N) installed, certificated in any category:

(1) Model BO–105A, BO–105C, BO–105S, and BO–105LS A–1 helicopters with a cantilever assembly, P/N 105–40132 or 105–40139, installed.

(2) Model BO 105 LS A–3 helicopters with a cantilever assembly, P/N 105–40139, installed.

(3) Model EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2, and EC135 T2+ helicopters, serial number (S/N) 0005 up to and including S/N 0699 except S/Ns 0076, 0093, 0098, 0099, 0102, 0104, 0106, 0108, 0110, 0111, 0113, 0114, 0116, 0117, and 0119, with a cyclic stick locking device, P/N L670M1045101, L670M1045102, L670M1045104, L670M1045105, L670M1045106, or L670M1045107, and Pin, P/N L311M1038205 or L311M1099205, installed.

(4) Model MBB–BK117 A–1, MBB–BK117 A–3, MBB–BK117 A–4, MBB–BK117 B–1, MBB–BK117 B–2, and MBB–BK117 C–1 helicopters, with a cyclic stick holder assembly, P/N 117–41140–01, 117–41230–01, or 117–41230–03, installed.

(5) Model MBB–BK117 C–2 helicopters, S/N 9004 up to and including S/N 9230, with a cyclic stick locking device, P/N B856M1011101, and Pin, P/N L311M1038205 or L311M1099205, installed.

(b) Unsafe Condition

This AD defines the unsafe condition as inadvertent locking of the cyclic prior to take off, which could result in loss of control of the helicopter.

(c) Effective Date

This AD becomes effective July 26, 2013.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 100 hours time-in-service:

(1) For Model BO–105A, BO–105C, BO–105S, and BO–105LS A–1 helicopters, modify and identify the cyclic stick locking device by following the Accomplishment Instructions, paragraphs 2.B.1. through 2.B.2.4 and 2.B.3. through 2.B.3.3., of Eurocopter Alert Service Bulletin (ASB) No. BO105–40–106, dated December 19, 2008.

(2) For Model BO–105 LS A–3 helicopters, modify and identify the cyclic stick locking device by following the Accomplishment Instructions, paragraphs 2.B.1.through 2.B.1.3, of Eurocopter ASB No. ASB–BO 105 LS 40–10, dated May 8, 2009.

(3) For Model EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2, and EC135 T2+ helicopters, modify and identify the cyclic stick cantilever by following the Accomplishment Instructions, paragraphs 3.B. through 3.C., of Eurocopter ASB EC135–67A–015, dated April 14, 2008.

(4) For Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters, modify and identify the cyclic stick locking device by following the Accomplishment Instructions, paragraphs 2.B.1. through 2.B.2.2., of Eurocopter ASB No. ASB–MBB–BK117–40–113, dated December 22, 2008.

(5) For Model MBB–BK117 C–2 helicopters, modify and identify the cyclic stick cantilever by following the Accomplishment Instructions, paragraphs 3.B. through 3.C., of Eurocopter ASB MBB BK117 C–2–67A–008, dated April 14, 2008.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matthew.fuller@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2010–0049, dated March 19, 2010, which superseded EASA AD No. 2009–0079, dated April 1, 2009; and EASA AD No. 2008–0113, dated June 10, 2008. You may view the EASA AD at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2012–1305.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6710 Main Rotor Control.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this Eurocopter service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) ASB BO105–40–106, dated December 19, 2008.

(ii) ASB–BO 105 LS 40–10, dated May 8, 2009.

(iii) ASB EC135–67A–015, dated April 14, 2008.

(iv) ASB–MBB–BK117–40–113, dated December 22, 2008.

(v) ASB MBB BK117 C–2–67A–008, dated April 14, 2008.

(3) For Eurocopter Deutschland GmBh helicopters service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub*.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Fort Worth, Texas, on May 29, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–13473 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1330; Directorate Identifier 2012–CE–006–AD; Amendment 39–17470; AD 2013–11–10]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) (previously COLUMBIA or LANCAIR) Models LC40–550FG, LC41–550FG, and LC42–550FG airplanes. This AD was prompted by reports that during maximum braking, if the brakes lock up and a skid occurs, a severe oscillatory yawing motion or ''wheel walk'' may develop, which could result in further significant structural damage to the airplane. This AD requires insertions into the pilot's operating handbook (POH) and the airplane maintenance manuals (AMM) regarding proper use of the brakes and inspection of the aft fuselage. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective July 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 26, 2013.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Customer Service, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax (316) 517–7271; Internet: *www.cessnasupport.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, Wichita Aircraft Certification Office (ACO), FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That

NPRM published in the **Federal Register** on December 21, 2012 (77 FR 75590). That NPRM proposed to require insertions into the pilot's operating handbook (POH) and the airplane maintenance manuals (AMM) regarding proper use of the brakes and inspection of the aft fuselage.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Modify the Landing Gear

Paul Rene LaChance stated that while supportive of the AD, he believes it to be too late and does not go far enough. He commented that he had experienced such an incident himself. Maximum braking had occurred. Afterward, the airplane was flown for a short flight with the pilot unaware of the severe tail damage, and the tail almost came off. The commenter states we should require modification of the airplane with the main landing gear oriented vertical rather than the current forward tilt.

We do not agree with this comment. The controllability of the aircraft is not in question if the pilot reduces brake pressure in the event of a wheel walking event. The procedures in the AD will ensure pilots are aware of appropriate actions and what inspections are required if such an event occurs. The commenter may provide substantiating data and apply for an alternative method of compliance (AMOC) following the procedures in paragraph (i) of this AD to implement a design modification.

AD Is Not Necessary and Should Be Withdrawn

Darryl James Taylor, Steven Masters, William Paul Boyd, Paul Harrington, George Richard Wilhelmsen, Todd Thompson, Larry D. Fenwick, and Thomas Clare who is President of the Cessna Advanced Aircraft Club (CAAC), requested we withdraw the NPRM (77 FR 75590, December 21, 2012) because it is unnecessary, does not add to safety, and is ineffective. The AD would affect 726 airplanes, and there have only been five occurrences out of thousands of landings over the past nine years. The commenters do not feel this is statistically significant. Since the AD comes several years after an isolated incident, the AD addresses no real safety concern. Appropriate notices have already been incorporated in POH manuals per Cessna Service Bulletin SB 10–11–01, dated August 17, 2010. The commenters feel it is unlikely that additional notes to the POH or placards will be an effective solution.

We do not agree with this comment. The wheel walking characteristics are highly unusual. We are unaware of any other airplane model that has experienced such an event. Currently, the events are relatively well publicized, but they may be forgotten or unknown to future pilots without previous knowledge about the airplane. Adding the changes to the POH and maintenance manual and mandating the aft fuselage inspection will assure that someone does not take off again after an event without having the airplane inspected. The added changes will also help the pilot better know how to handle the airplane if the wheel walk event does occur. The AD process is the only means where the FAA can require all owner/operators to incorporate all the necessary changes and conduct the required inspection. However, owner/operators that have already incorporated the POH changes per the Cessna service bulletin may receive credit for certain actions required by this AD.

Engineering Solution Needed

Darryl James Taylor, William Paul Boyd, Paul Herrington, George Richard Wilhelmsen, and Larry D. Fenwick commented that maximum braking is considered panic braking where the pilot instinctively reacts to an adverse condition, and they feel the real issue is proper maintenance training. The braking issue occurs only when the gear bushings have slipped completely out, and maintenance shops do not know what they are looking at. In which case, the solutions in the AD will be ineffective. Probably, the landings were not made under ideal or normal conditions, and the pilots may have exceeded operational specifications during landing. This issue should have an engineering solution such as anti-lock brakes, which could prevent brake lock-up and avoid the adverse condition. It would address maximum braking, no matter what the cause. The anti-lock system would include slotted wheels and Hall sensors and change the current braking system. The cost would be justified because of the reduced risk of structural damage.

We do not agree with this comment. Although we would consider a design change as an AMOC, we have determined that the requirements in this AD are sufficient to address the unsafe condition. The commenters may provide substantiating data and apply for an AMOC following the procedures in paragraph (i) of this AD to implement a modification as an acceptable level of safety to address the unsafe condition.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 75590, December 21, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 75590, December 21, 2012).

Costs of Compliance

We estimate that this AD affects 726 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Insertion into the POH and the maintenance manuals, and inspection of aft fuselage.	4.5 work-hours × $85 per hour = $382.50	Not applicable	$382.50	$277,695

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII,

Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–11–10 Cessna Aircraft Company: Amendment 39–17470 ; Docket No. FAA–2012–1330; Directorate Identifier 2012–CE–006–AD.

(a) Effective Date

This AD is effective July 26, 2013.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the following Cessna Aircraft Company (previously COLUMBIA or LANCAIR) Models LC40–550FG, LC41–550FG, and LC42–550FG airplanes that are certificated in any category:

(i) LC40–550FG (Model 300), serial numbers 40001 through 40079;

(ii) LC41–550FG (Model 400), serial numbers 41001 through 41108, 41501 through 41533, 41563 through 41800, and 411001 through 411161; and

(iii) LC42–550FG (Model 350), serial numbers 42001 through 42084, 42501 through 42569, and 421001 through 421020.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 5300, Fuselage Structure (General).

(e) Unsafe Condition

This AD was prompted by reports that during maximum braking, if the brakes lock up and a skid occurs, a severe oscillatory yawing motion or ''wheel walk'' may develop, which could result in significant structural damage to the airplane. We are proposing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within the next 50 hours time-in-service (TIS) after July 26, 2013 (the effective date of this AD) or within the next 3 months after July 26, 2013 (the effective date of this AD), whichever occurs first, incorporate figure 1 of paragraph (g)(1) of this AD into the applicable Pilot's Operating Handbook (POH)/FAA-approved Airplane Flight Manual (AFM), Section 2, Limitations (Other Limitations). This may also be done by inserting a copy of this AD into the POH/AFM.

AFT FUSELAGE INSPECTION

If tire skidding occurs and a severe oscillatory yawing motion, "wheel walking" occurs, an Aft Fuselage Inspection must be performed in accordance with the airplane maintenance manual by an appropriately rated mechanic prior to further flight.

Figure 1 of paragraph (g)(1)

(2) Within the next 50 hours TIS after July 26, 2013 (the effective date of this AD) or within the next 3 months after July 26, 2013 (the effective date of this AD), whichever occurs first, insert a copy of this AD into the POH/AFM or incorporate figure 2 of paragraph (g)(2) of this AD into the applicable POH/AFM at the end of each of the following sections:

(i) Section 4, Normal Procedures (Amplified Procedures): Landings, Normal Landings; and

(ii) Section 4, end of paragraph: Short Field Landings.

WARNING

IF TIRE SKIDDING OCCURS, IMMEDIATELY REDUCE BRAKE PEDAL PRESSURE. IF TIRE SKIDDING IS ALLOWED TO CONTINUE, A SEVERE OSCILLATORY YAWING MOTION, "WHEEL WALKING," COULD DEVELOP. IF THIS SEVERE OSCILLATORY YAWING MOTION OCCURS, AN AFT FUSELAGE INSPECTION MUST BE PERFORMED IN ACCORDANCE WITH THE AIRPLANE MAINTENANCE MANUAL BY AN APPROPRIATELY RATED MECHANIC PRIOR TO FURTHER FLIGHT.

Figure 2 of paragraph (g)(2)

(3) Within the next 50 hours TIS after July 26, 2013 (the effective date of this AD) or within the next 3 months after July 26, 2013 (the effective date of this AD), whichever occurs first, incorporate the following Cessna Aircraft Company maintenance manual revisions for the appropriate model airplane as specified in paragraphs (g)(3)(i) through (g)(3)(iii) of this AD into your maintenance program (maintenance manual).

(i) For Model LC40–550FG (Model 300): Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC40–550FG, 300MM02, Revision 2, dated July 1, 2012.

(ii) For Model LC41–550FG (Model 400): Pages 1 through 5, Subject 20–90–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–00, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC41–550FG/T240, 400MM02, Revision 2, dated July 1, 2012.

(iii) For Model LC42–550FG (Model 350): Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC42–550FG, 350MM02, Revision 2, dated July 1, 2012.

Note 1 for paragraph (g)(3) of this AD: We recommend you replace your current maintenance manual in its entirety with the updated Cessna Aircraft Company Maintenance Manual applicable to your model airplane, 300MM02, 350MM02, or 400MM02, all Revision 2, all dated July 1, 2012.

(4) The actions required by paragraphs (g)(1), (g)(2), and (g)(3) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)–(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(5) At the next annual inspection after July 26, 2013 (the effective date of this AD) or within the next 50 hours TIS after July 26, 2013 (the effective date of this AD), whichever occurs later, and before further flight if a severe oscillatory yawing motion as described in figure 1 of paragraph (g)(1) of this AD has occurred, inspect the aft fuselage following the aft fuselage inspection procedures for the appropriate model of airplane as specified in paragraphs (g)(5)(i) through (g)(5)(iii) of this AD.

(i) For Model LC40–550FG (Model 300): Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC40–550FG, 300MM02, Revision 2, dated July 1, 2012.

(ii) For Model LC41–550FG (Model 400): Pages 1 through 5, Subject 20–90–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–00, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual Model LC41–550FG/T240, 400MM02, Revision 2, dated July 1, 2012.

(iii) For Model LC42–550FG (Model 350): Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; and pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC42–550FG, 350MM02, Revision 2, dated July 1, 2012.

(6) If any damaged or suspect areas are found during any aft fuselage inspection required by paragraph (g)(5) of this AD, before further flight, contact Cessna Customer Service by phone at (316) 517–5800 or fax at (316) 517–7271 for an FAA-approved repair and perform the repair.

(h) Credit for Actions Accomplished in Accordance With Previous Service Information

Cessna Aircraft Company released the following POH/AFM Temporary Revisions via Cessna Service Bulletin SB 10–11–01, dated August 17, 2010. Incorporation of the applicable document specified in paragraphs (h)(i) through (h)(iii) of this AD is considered compliance with the POH/AFM change requirements in paragraphs (g)(1) and (g)(2) of this AD. The applicable POH/AFM Temporary Revisions are:

(i) Cessna Corvalis 300: RA050001–O TR03–06, dated August 13, 2010;

(ii) Cessna Corvalis 350: RB050005–I TR08–11 (Garmin G1000-equipped) and RB050000–R TR02–05 (Avidyne Entegra-equipped), dated August 13, 2010; and

(iii) Cessna Corvalis 400: RC050005–I TR10–13 (Garmin G1000-equipped) and RC050002–G TR02–05 (Avidyne Entegra-equipped), dated August 13, 2010.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123;

fax: (316) 946–4107; email: *gary.park@faa.gov*.

(2) Cessna Service Bulletin SB 10–11–01, dated August 17, 2010.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC40–550FG, 300MM02, Revision 2, dated July 1, 2012.

(ii) Pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC40–550FG, 300MM02, Revision 2, dated July 1, 2012.

(iii) Pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC40–550FG, 300MM02, Revision 2, dated July 1, 2012.

(iv) Pages 1 through 5, Subject 20–90–00, ''Tap Testing—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC41–550FG/T240, 400MM02, Revision 2, dated July 1, 2012.

(v) Pages 1 through 2, Subject 20–95–00, ''Structural Inspections—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC41–550FG/T240, 400MM02, Revision 2, dated July 1, 2012.

(vi) Pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC41–550FG/T240, 400MM02, Revision 2, dated July 1, 2012.

(vii) Pages 1 through 5, Subject 20–95–00, ''Tap Testing—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC42–550FG, 350MM02, Revision 2, dated July 1, 2012.

(viii) Pages 1 through 2, Subject 20–95–02, ''Structural Inspections—Description and Operation''; of Cessna Aircraft Company Maintenance Manual, Model LC42–550FG, 350MM02, Revision 2, dated July 1, 2012.

(ix) Pages 501 through 503, Subject 53–70–00, ''Fuselage Components—Adjustment/Test''; of Cessna Aircraft Company Maintenance Manual, Model LC42–550FG, 350MM02, Revision 2, dated July 1, 2012.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Customer Service, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax (316) 517–7271; Internet: *www.cessnasupport.com*.

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on May 23, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14689 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30906; Amdt. No. 3541]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 21, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 21, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97:

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on June 7, 2013.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
7/25/13	AL	Mobile	Mobile Downtown	3/0066	6/6/13	RNAV (GPS) RWY 14, Amdt 1A.
7/25/13	FL	Tampa	Tampa Executive	3/0404	6/6/13	RNAV (GPS) RWY 23, Amdt 1.
7/25/13	FL	Tampa	Tampa Executive	3/0405	6/6/13	ILS OR LOC RWY 23, Amdt 1.
7/25/13	FL	Milton	Peter Prince Field	3/0429	6/6/13	RNAV (GPS) RWY 36, Amdt 1.
7/25/13	VQ	Christiansted	Henry E Rohlsen	3/0430	6/6/13	VOR RWY 28, Amdt 19A.
7/25/13	VQ	Christiansted	Henry E Rohlsen	3/0431	6/6/13	ILS OR LOC RWY 10, Amdt 7A.
7/25/13	VQ	Christiansted	Henry E Rohlsen	3/0432	6/6/13	RNAV (GPS) RWY 10, Amdt 1.
7/25/13	NJ	Atlantic City	Atlantic City Intl	3/0485	6/6/13	VOR/DME RWY 22, Amdt 6.
7/25/13	ME	Princeton	Princeton Muni	3/0753	6/6/13	RNAV (GPS) RWY 15, Orig-A.
7/25/13	PA	Myerstown	Deck	3/0754	6/6/13	RNAV (GPS) RWY 19, Orig-A.
7/25/13	CA	Ramona	Ramona	3/6077	6/6/13	Takeoff Minimums and (Obstacle) DP, Amdt 3.
7/25/13	IA	Monticello	Monticello Rgnl	3/9327	6/6/13	RNAV (GPS) RWY 15, Amdt 1A.
7/25/13	IA	Monticello	Monticello Rgnl	3/9328	6/6/13	RNAV (GPS) RWY 33, Amdt 1.

[FR Doc. 2013–14740 Filed 6–20–13; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30905; Amdt. No. 3540]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 21, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 21, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169, (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on June 7, 2013.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

*** * * Effective 27 June 2013**

Klawock, AK, Klawock, RNAV (GPS) RWY 2, Orig

*** * * Effective 25 July 2013**

Mesa, AZ, Falcon Fld, RNAV (GPS) RWY 4R, Amdt 1A
Ontario, CA, Ontario Intl, RNAV (GPS) Y RWY 8L, Amdt 1C
Meriden, CT, Meriden Markham Muni, RNAV (GPS) RWY 36, Orig-A
Princeton, KY, Princeton-Caldwell County, RNAV (GPS) RWY 5, Orig
Princeton, KY, Princeton-Caldwell County, RNAV (GPS) RWY 23, Orig
Princeton, KY, Princeton-Caldwell County, Takeoff Minimums and Obstacle DP, Orig
East Tawas, MI, Iosco County, RNAV (GPS) RWY 8, Orig
East Tawas, MI, Iosco County, Takeoff Minimums and Obstacle DP, Amdt 1
East Tawas, MI, Iosco County, VOR–A, Amdt 8
Austin, MN, Austin Muni, RNAV (GPS) RWY 17, Amdt 1
Austin, MN, Austin Muni, VOR/DME–A, Amdt 3
Minneapolis, MN, Minneapolis-St Paul Intl/Wold-Chamberlain, RNAV (RNP) Y RWY 35, Amdt 1
Paynesville, MN, Paynesville Muni, RNAV (GPS) RWY 11, Amdt 1
Paynesville, MN, Paynesville Muni, RNAV (GPS) RWY 29, Amdt 1
Camdenton, MO, Camdenton Memorial, RNAV (GPS) RWY 15, Amdt 1
Camdenton, MO, Camdenton Memorial, RNAV (GPS) RWY 33, Amdt 1
Camdenton, MO, Camdenton Memorial, Takeoff Minimums and Obstacle DP, Amdt 2
Sikeston, MO, Sikeston Memorial Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Sikeston, MO, Sikeston Memorial Muni, VOR/DME RWY 2, Amdt 3
Antigo, WI, Langlade County, NDB RWY 16, Amdt 6, CANCELED
Antigo, WI, Langlade County, RNAV (GPS) RWY 9, Orig
Antigo, WI, Langlade County, RNAV (GPS) RWY 17, Amdt 2
Antigo, WI, Langlade County, RNAV (GPS) RWY 27, Orig
Antigo, WI, Langlade County, RNAV (GPS) RWY 35, Amdt 2
Hayward, WI, Sawyer County, LOC/DME RWY 20, Amdt 1B

*** * * Effective 22 August 2013**

Huslia, AK, Huslia, VOR/DME RWY 3, Orig-A
Bay Minette, AL, Bay Minette Muni, VOR RWY 8, Amdt 8, CANCELED
Birmingham, AL, Birmingham-Shuttlesworth Intl, RNAV (GPS) RWY 36, Amdt 1A
Fort Collins/Loveland, CO, Fort Collins-Loveland Muni, RNAV (GPS) RWY 33, Amdt 1
Dover/Cheswold, DE, Delaware Airpark, RNAV (GPS) RWY 27, Amdt 1A
Melbourne, FL, Melbourne Intl, VOR RWY 27L, Amdt 13, CANCELED
Griffin, GA, Griffin-Spalding County, RNAV (GPS) RWY 14, Orig-A
Tifton, GA, Henry Tift Myers, NDB RWY 33, Amdt 1A, CANCELED
Kahului, HI, Kahului, NDB RWY 2, Orig
Kahului, HI, Kahului, NDB/DME RWY 2, Amdt 2A, CANCELED
Boone, IA, Boone Muni, RNAV (GPS) RWY 15, Amdt 1
Boone, IA, Boone Muni, RNAV (GPS) RWY 33, Amdt 1
Spencer, IA, Spencer Muni, RNAV (GPS) RWY 18, Amdt 1
Spencer, IA, Spencer Muni, RNAV (GPS) RWY 30, Amdt 1
Spencer, IA, Spencer Muni, RNAV (GPS) RWY 36, Amdt 1
Harrisburg, IL, Harrisburg-Raleigh, NDB RWY 24, Amdt 11, CANCELED
Johnson, KS, Stanton County Muni, NDB RWY 17, Amdt 2, CANCELED
Prestonsburg, KY, Big Sandy Rgnl, RNAV (GPS) RWY 3, Orig-A
Prestonsburg, KY, Big Sandy Rgnl, RNAV (GPS) RWY 21, Amdt 1B
Prestonsburg, KY, Big Sandy Rgnl, VOR/DME–A, Amdt 2A
Escanaba, MI, Delta County, RNAV (GPS) RWY 36, Orig
Farmington, MO, Farmington Rgnl, NDB RWY 2, Amdt 2C, CANCELED
Farmington, MO, Farmington Rgnl, NDB RWY 20, Amdt 3A, CANCELED
Springfield, MO, Springfield-Branson National, RNAV (GPS) RWY 32, Amdt 2
Greenwood, MS, Greenwood-Leflore, VOR RWY 5, Amdt 13
Hattiesburg, MS, Hattiesburg Bobby L. Chain Muni, VOR RWY 13, Amdt 12, CANCELED
Jackson, MS, Hawkins Field, ILS OR LOC RWY 16, Amdt 6
Meridian, MS, Key Field, ILS OR LOC RWY 1, Amdt 26
Meridian, MS, Key Field, ILS OR LOC RWY 19, Amdt 1
Meridian, MS, Key Field, VOR–A, Amdt 17
Raymond, MS, John Bell Williams, ILS OR LOC RWY 12, Amdt 1
Raymond, MS, John Bell Williams, NDB RWY 12, Amdt 3
Fargo, ND, Hector Intl, RNAV (GPS) RWY 9 Amdt 1
Fargo, ND, Hector Intl, RNAV (GPS) RWY 27 Amdt 1
Jamestown, NY, Chautauqua County/Jamestown, VOR/DME RWY 7, Amdt 4, CANCELED
Oneonta, NY, Oneonta Muni, VOR RWY 06, Amdt 4B, CANCELED
Saranac Lake, NY, Adirondack Rgnl, RNAV (GPS) RWY 23, Orig-A
Ashland, OH, Ashland County, NDB RWY 19, Amdt 11B, CANCELED
Hillsboro, OH, Highland County, Takeoff Minimums and Obstacle DP, Amdt 3
Tulsa, OK, Tulsa Intl, RNAV (RNP) Z RWY 18R, Orig-B, CANCELED
Tulsa, OK, Tulsa Intl, RNAV (RNP) Z RWY 26, Orig-C, CANCELED
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, VOR/DME–A, Amdt 5, CANCELED
Lemmon, SD, Lemmon Muni, GPS RWY 29, Orig-A, CANCELED
Lemmon, SD, Lemmon Muni, RNAV (GPS) RWY 29, Orig
Lemmon, SD, Lemmon Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Amarillo, TX, Rick Husband Amarillo Intl, VOR RWY 22, Orig, CANCELED
Bay City, TX, Bay City Muni, NDB RWY 13, Amdt 4A, CANCELED
Bay City, TX, Bay City Muni, VOR/DME–A, Amdt 4B
Carrizo Springs, TX, Dimmit County, RNAV (GPS) RWY 13, Orig
Carrizo Springs, TX, Dimmit County, RNAV (GPS) RWY 31, Amdt 1
Charlottesville, VA, Charlottesville-Albemarle, RNAV (GPS) Y RWY 21, Amdt 2
Charlottesville, VA, Charlottesville-Albemarle, RNAV (GPS) Z RWY 21, Amdt 1
Charlottesville, VA, Charlottesville-Albemarle, Takeoff Minimums and Obstacle DP, Amdt 10
Bremerton, WA, Bremerton National, ILS OR LOC RWY 20, Amdt 16
Bremerton, WA, Bremerton National, NDB RWY 2, Amdt 2
Bremerton, WA, Bremerton National, RNAV (GPS) RWY 2, Amdt 1
Bremerton, WA, Bremerton National, RNAV (GPS) RWY 20, Amdt 1
Osceola, WI, L O Simenstad Muni, RNAV (GPS) RWY 10, Orig
Osceola, WI, L O Simenstad Muni, RNAV (GPS) RWY 28, Amdt 1

[FR Doc. 2013–14742 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–0464]

Drawbridge Operation Regulations; Charles River, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Metropolitan District Commission (Craigie) Bridge across the Charles River, mile 1.0, at Boston, Massachusetts. Under this temporary deviation the bridge may remain in the closed position for two hours on July 4, 2013, to facilitate the Fourth of July Concert and Fireworks. This deviation is necessary to facilitate public safety during a public event.

DATES: This deviation is effective from 10 p.m. on July 4, 2013 through 12 a.m. on July 5, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0464] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: On June 14th, a temporary deviation from the drawbridge regulation was published in the **Federal Register** (78 FR 35756) under the same name and docket number. This temporary deviation modifies the times listed on the previously published deviation in which the deviation will be in effect.

The Metropolitan District Commission (Craigie) Bridge, across the Charles River, mile 1.0, at Boston, Massachusetts, has a vertical clearance in the closed position of 13.5 feet at normal pool elevation above the Charles River Dam. The existing drawbridge operation regulations are listed at 33 CFR § 117.591(e).

The waterway is predominantly a recreational waterway supporting various size vessels.

The owner of the bridge, Massachusetts Department of Transportation, requested a temporary deviation to facilitate public safety during a public event, the 2013 Fourth of July Concert and Fireworks.

Under this temporary deviation, in effect from 10 p.m. on July 4, 2013 through 12 a.m. on July 5, 2013, the Metropolitan District Commission (Craigie) Bridge, mile 1.0, across the Charles River at Boston, Massachusetts, may remain in the closed position.

Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–14788 Filed 6–20–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–0426]

Drawbridge Operation Regulations; Reynolds Channel, Nassau, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Long Beach Bridge, mile 4.7, across Reynolds Channel at Nassau, New York. Under this temporary deviation, the bridge may remain in the closed position for two and a half hours to facilitate a public event, the Town of Hempstead Annual Fireworks Display.

DATES: This deviation is effective between 9:30 p.m. and 12 a.m. on June 29, 2013 and June 30, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0426] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Long Beach Bridge has a vertical clearance of 20 feet at mean high water, and 24 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.799(g).

The bridge owner, the County of Nassau Department of Public Works, requested a bridge closure to facilitate a public event, the Town of Hempstead Annual Salute to Veterans Fireworks Display.

Under this temporary deviation, the Long Beach Bridge may remain in the closed position between 9:30 p.m. on June 29, 2013 and 12 a.m. on June 30, 2013, with a rain date of June 30, 2013 and July 1, 2013.

Reynolds Creek has commercial and recreational vessel traffic. No objections were received from the waterway users.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated deviation period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–14789 Filed 6–20–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0375]

Safety Zone; Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for annual fireworks events in the Captain of the Port, Lake Michigan zone at specified times from June 15, 2013, until September 7, 2013.

This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks displays. During enforcement, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port, Lake Michigan.

DATES: The regulations in 33 CFR 165.935 will be enforced at the times specified in the **SUPPLEMENTARY INFORMATION** section that follows.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.935, Safety Zone, Milwaukee Harbor, Milwaukee, WI, at the following times for the following events:

(1) *Polish Fest fireworks display* on June 15, 2013, from 10:15 p.m. until 11:00 p.m.;

(2) *Summerfest fireworks display* on June 26, 2013, and July 3, 2013, from 9:15 p.m. until 10:30 p.m.;

(3) *Festa Italiana fireworks display* on each day of July 19, 20, and 21, 2013, from 10:15 p.m. until 11:15 p.m.;

(4) *German Fest fireworks display* on July 26 and 27, 2013, from 10:15 p.m. until 11:15 p.m.;

(5) *Irish Fest fireworks display* on August 18, 2013, from 10:15 p.m. until 11:15 p.m.;

(6) *Indian Summer fireworks display* on September 6 and 7, 2013, from 9:15 p.m. until 10:30 p.m.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or his on-scene representative.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement period via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Lake Michigan, or his on-scene representative may be contacted via VHF Channel 16.

Dated: June 11, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14801 Filed 6–20–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2013–0208; FRL–9825–7]

Approval and Promulgation of Implementation Plans; State of Missouri; Infrastructure SIP Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of four Missouri State Implementation Plan (SIP) submissions. EPA is approving portions of two SIP submissions addressing the applicable infrastructure requirements of the Clean Air Act (CAA) for the 1997 and 2006 National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$). These infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is also taking final action to approve two additional SIP submissions from Missouri, one addressing the Prevention of Significant Deterioration (PSD) program in Missouri, and another addressing the requirements applicable to any board or body which approves permits or enforcement orders of the CAA, both of which support requirements associated with infrastructure SIPs. The rationale for this action is explained in this notice and in more detail in the notice of proposed rulemaking for this action, which was published on April 10, 2013.

DATES: This rule will be effective July 22, 2013.

ADDRESSES: EPA has established docket number EPA–R07–OAR–2013–0208 for this action. All documents in the electronic docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Bhesania, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551–7147; *fax number:* (913) 551–7065; *email address: bhesania.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer to EPA. This section provides additional information by addressing the following:

I. Background and Purpose
II. EPA's Responses to Comments
III. Summary of EPA Final Action
IV. Statutory and Executive Order Review

I. Background and Purpose

On April 10, 2013, EPA proposed to approve four Missouri SIP submissions (78 FR 21281). EPA received the first submission on February 27, 2007, addressing the infrastructure SIP requirements relating to the 1997 $PM_{2.5}$ NAAQS. EPA received the second submission on December 28, 2009, addressing the infrastructure SIP requirements relating to the 2006 $PM_{2.5}$ NAAQS. As originally detailed in the proposed rulemaking, EPA had previously approved section 110(a)(2)(D)(i)(I) and (II)—Interstate and international transport requirements of Missouri's February 27, 2007, SIP submission for the 1997 $PM_{2.5}$ NAAQS (72 FR 25975, May 8, 2007); and EPA disapproved section 110(a)(2)(D)(i)(I)—Interstate and international transport requirements of Missouri's December 28, 2009, SIP submission for the 2006 $PM_{2.5}$ NAAQS (76 FR 43156, July 20, 2011). Therefore, in the April 10, 2013, proposed action, we did not propose to act on those portions since they have already been acted upon by EPA. With this final action, we will have acted on both the February 27, 2007, and the December 28, 2009, submissions in their entirety, excluding those provisions that are not within the scope of today's rulemaking as identified in section IV of the April 10, 2013, proposed action for

both the 1997 and 2006 $PM_{2.5}$ infrastructure SIP submissions.

The third submission was received by EPA on September 5, 2012. This submission revises Missouri's rule in Title 10, Division 10, Chapter 6.060 of the Code of State Regulations (CSR) (10 CSR 10–6.060) ''Construction Permits Required'' to implement certain elements of the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' rule (75 FR 64864, October 20, 2010). On March 19, 2013, Missouri amended and clarified its submission so that it no longer included specific provisions affected by the January 22, 2013, U.S. Court of Appeals for the District of Columbia court decision which vacated and remanded the provisions concerning implementation of the $PM_{2.5}$ SILs and vacated the provisions adding the $PM_{2.5}$ SMC that were promulgated as part of the October 20, 2010, $PM_{2.5}$ PSD Rule (*Sierra Club* v. *EPA,* No. 10–1413 (filed December 17, 2010)). In addition, this rule amendment defers the application of PSD permitting requirements to carbon dioxide emissions from bioenergy and other biogenic stationary sources.

EPA received the fourth submission on August 8, 2012. This submission addresses the conflict of interest provisions in section 128 of the CAA as it relates to element E of the infrastructure SIP.

In summary, EPA is taking final action today to approve these four SIP submissions from Missouri. The first two submissions addressed the requirements of CAA sections 110 (a)(1) and (2) as applicable to the 1997 and 2006 NAAQS for $PM_{2.5}$. With this final action, we will have acted on both the 1997 and 2006 submissions in their entirety excluding those provisions that are not within the scope of the rulemaking. EPA is also taking final action to approve two additional SIP submissions from Missouri, one addressing the Prevention of Significant Deterioration (PSD) program in Missouri as it relates to $PM_{2.5}$, unless otherwise noted in EPA's proposed action on April 10, 2013 (78 FR 21281), and another SIP revision addressing the requirements of section 128 of the CAA, both of which support the requirements associated with infrastructure SIPs.

In today's action, EPA also acknowledges an administrative error in our April 10, 2013 proposal. Under section V, within EPA's analysis of the state's submittal for element E related to infrastructure SIP requirements, we referenced that both sections 643.040.2 and 105.450 were a part of the ''Air Conservation'' chapter of the Missouri Revised Statutes. Through today's action, EPA acknowledges that section 105.450 is not a part of the ''Air Conservation'' chapter, but instead is a part of the ''Public Officers and Employees—Miscellaneous Provisions'' chapter of the Missouri Revised Statutes. No changes were made based on this correction.

We also note that within the April 10, 2013, proposed rulemaking, we relied upon a separate direct final action from April 2, 2013,[1] to demonstrate that Missouri met all the requirements of element C of the infrastructure SIP (78 FR at 21286). EPA received no comments on this direct final action, and therefore this SIP revision became effective on June 3, 2013.

II. EPA's Responses to Comments

The public comment period on EPA's proposed rule opened April 10, 2013, the date of its publication in the **Federal Register**, and closed on May 10, 2013. During this period, EPA received three comment letters: One from a citizen received April 18, 2013; one from the Sierra Club and Earthjustice received May 10, 2013 (hereinafter ''Sierra Club''); and one from the National Parks Conservation Association received May 10, 2013 (hereinafter ''NPCA''). All three letters are available in the docket to today's final rule. The citizen comment was made in support of EPA's action, and we appreciate the support for this rulemaking. No changes were made to this final action based on this comment. The remaining two letters contained some similar comments, and therefore we have grouped those similar comments into single comments and responses where appropriate.

Comment 1: The Sierra Club contends that Missouri's infrastructure SIP submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS do not meet the requirements of section 110(a)(2)(A). First, the commenter suggests that the SIP submissions are deficient because the state relies ''on general, existing statutory and regulatory authority in lieu of developing specific new requirements tailored to ensure that the 1997 and 2006 $PM_{2.5}$ NAAQS is maintained and enforced.'' Second, the Commenter suggests that certain existing provisions in Missouri's SIP and relied upon in the SIP submissions may be insufficiently specific to be enforceable emissions limits. In support of the latter concern, the Commenter cites the court decision in *McEvoy* v. *IEI Barge Services,* 622 F.3d 671 (7th Cir. 2010) for the proposition that ''some (but not all) courts have suggested that only an emissions limitation that specifically 'limits the quantity, rate, or concentration of emissions,' can be an 'enforceable emission limitation'' under the CAA. The implication of this comment is that only an emissions limitation that is sufficiently specific could meet the legal requirements of section 110(a)(2)(A) for purposes of enforcement, and thus for purposes of an infrastructure SIP submission as well.

Response 1: EPA disagrees with the Sierra Club's contention that Missouri's infrastructure SIP submissions are not approvable with respect to section 110(a)(2)(A) because they do not contain ''new requirements'' for the 1997 and 2006 $PM_{2.5}$ NAAQS. Similarly, EPA disagrees with the Commenter's view that the existing provisions of the Missouri SIP are not enforceable emissions limitations for purposes of the 1997 and 2006 $PM_{2.5}$ NAAQS.

With respect to the concerns about the reliance on general, existing statutory and regulatory authority to meet the requirements of section 110(a)(2)(A) in lieu of developing specific new requirements, the Sierra Club is incorrect with respect to the scope of what is germane to an action on an infrastructure SIP. This rulemaking pertains to EPA's action on infrastructure SIP submissions, which must only establish that the state's SIP meets the general structural requirements described in section 110(a)(2)(A) for the NAAQS at issue. That section states that each implementation plan submitted by a State under the CAA shall include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act. In the context of an infrastructure SIP submission, states may establish that they have sufficient SIP provisions for this purpose through existing SIP provisions, through newly submitted SIP provisions, or through a combination of the two.

The Commenter seems to believe that in the context of an infrastructure SIP submission, section 110(a)(2)(A) explicitly requires that a state adopt all possible new enforceable emission limits, control measures and other

[1] Approval and Promulgation of Implementation Plans and Operating Permits Program, State of Missouri (78 FR 19602).

means developed specifically for attaining and maintaining the new NAAQS within the state. EPA does not believe that this is a reasonable interpretation of the provision with respect to infrastructure SIP submissions. Rather, EPA believes that different requirements for SIPs become due at different times depending on the precise applicable requirements in the CAA. For example, SIP submissions that may contain new emissions limitations for purposes of attaining and maintaining the NAAQS are required pursuant to CAA section 172(b), as part of an attainment demonstration for areas designated as nonattainment for the NAAQS. The timing of such an attainment demonstration would be after promulgation of a NAAQS, after completion of designations, and after development of the applicable nonattainment plans, *i.e.,* long after the time when section 110(a)(1) requires an infrastructure SIP submission.

The Sierra Club comment suggests that EPA should disapprove a state's infrastructure SIP submission if the state has not already developed all the substantive emissions limitations that may ultimately be required for all purposes, such as attainment and maintenance of the NAAQS as part of an attainment plan for a designated nonattainment area. Instead, for purposes of section 110(a)(2)(A), and for purposes of an infrastructure SIP submission, EPA believes the proper inquiry is whether the state has met the basic structural SIP requirements appropriate at the point in time EPA is acting upon it. EPA does not interpret section 110(a)(2)(A) to require states in an infrastructure SIP submission to have developed and submitted the full range of emissions limits that may ultimately be necessary for purposes of attainment and maintenance of the NAAQS within the state. As explained in the proposal, EPA has concluded that Missouri has adequately established that it has met basic requirements for implementation, maintenance, and enforcement of the 1997 and 2006 $PM_{2.5}$ NAAQS through the existing SIP provisions identified in the proposal.

With respect to the Sierra Club's concerns about Missouri's use of ''broad provisions'' in its SIP to address the requirements of section 110(a)(2)(A), EPA has reviewed Missouri's statutes and regulations in light of the *McEvoy* court decision noted by the Commenter. EPA acknowledges the Commenter's concern that SIP provisions must contain sufficient specificity, so that the regulated community, regulators, and members of the public can clearly ascertain what is required of sources, and so that enforcement can occur in the event of violations. EPA believes that the Court's decision in *McEvoy* is limited to the specific facts and circumstances of that case, but nevertheless reflects what may happen in an enforcement proceeding if a given SIP provision is ultimately deemed insufficiently specific to be enforceable. However, based on a review of the provisions at issue, we conclude that Missouri has sufficiently specific statutory and regulatory provisions in place to meet the requirements of section 110(a)(2)(A) for purposes of an infrastructure SIP submission.

As we noted in the proposed rulemaking and as Sierra Club acknowledges, RsMO section 643.050.1(1)(b) gives the Missouri Air Conservation Commission the authority to adopt, promulgate, amend and repeal rules and regulations that establish ''maximum quantities of air contaminants that may be emitted from any air contaminant source.'' Pursuant to that authority, Missouri has adopted ambient air quality standards at 10 CSR 10–6.010 that mirror the 1997 $PM_{2.5}$ annual and 2006 $PM_{2.5}$ 24-hour NAAQS, along with the NAAQS for other criteria pollutants such as sulfur dioxide, carbon monoxide, ozone, lead and nitrogen dioxide. The regulations at 10 CSR 10–6.020(3)(A) provide specific emissions limits for $PM_{2.5}$ and other pollutants. *See also* 10 CSR 10–6.060(11) (providing maximum allowable increases of particulate matter in Class I, Class II, and Class III areas in Missouri).

The regulations at 10 CSR 10–6.030(5) provide specific requirements for sampling the concentration of particulate matter emissions from sources; these requirements specifically incorporate by reference the test methods contained in 40 CFR part 60, appendix A and 40 CFR part 51, appendix M. Furthermore, the regulations at 10 CSR 10–6.040(4) provide reference methods for determining the concentration of particulate matter necessary for the enforcement of air pollution control regulations throughout Missouri. These regulations incorporate by reference the standards found at 40 CFR part 50.

EPA also notes that the Missouri air pollution control regulations contain specific requirements concerning the control of particulate matter. *See, e.g.,* 10 CSR 10–6.170 (Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin); 10 CSR 10–6.400 (Restriction of Emission of Particulate Matter From Industrial Processes); 10 CSR 10–6.405 (Restriction of Particulate Matter Emissions From Fuel Burning Equipment Used for Indirect Heating).

Furthermore, Missouri's regulations require that operating permits issued to sources contain specific ''emissions limitations or standards applicable to the installation'' and ''operational requirements or limitations as necessary to assure compliance with all applicable requirements.'' 10 CSR 10–6.065(6)(C)1. Thus, in addition to the emission limitations applicable to sources through the generally applicable provisions of the SIP, sources that are required to obtain permits will have additional legally enforceable requirements to meet specific emission limitations, control measures, or other restrictions as appropriate.

Coupled with the enforcement authority provided by Missouri's statutes and regulations, which provides MDNR the authority to issue compliance orders or assess administrative penalties for violations of any emissions limitations of the SIP, EPA continues to believe that Missouri has sufficient authority to address the requirements of section 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Comment 2: The Sierra Club and NPCA commented that emission reductions from the Clean Air Interstate Rule (CAIR) are not permanent and enforceable and therefore EPA cannot rely on CAIR to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II)—prong 4. Sierra Club argued that in light of the remand of the rule by the D.C. Circuit Court of Appeals in *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008), CAIR is neither permanent nor enforceable. Sierra Club also states that EPA has acknowledged in other **Federal Register** notices that CAIR was remanded without vacatur, was only temporary and could not be relied on as permanent and enforceable emission reductions for SIP approval purposes. Sierra Club also states that the Court's decision in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012) does not extend the life of CAIR and does not make CAIR a permanent and enforceable measure on which the state or EPA can rely. Therefore, the commenters state that EPA should disapprove this sub-element of Missouri's SIP.

Response 2: EPA agrees that all control measures in a SIP must be enforceable based on the requirements of CAA section 110(a)(2)(A). EPA disagrees, however, that CAIR is not enforceable at this time, given the scope of the court's order in *EME Homer City* and the issuance of the mandate in that case.

On May 12, 2005, EPA published CAIR, which requires significant reductions in emissions of SO_2 and NO_X from electric generating units (EGUs) to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form secondarily in the atmosphere (76 FR 70093). The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). In response to the Court's decision, EPA issued the Cross State Air Pollution Rule (CSAPR) to address the interstate transport of NO_X and SO_2 in the eastern United States (76 FR 48208, August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision vacating CSAPR, *EME Homer City Generation* v. *EPA,* 696 F.3d 7.[2] In that decision, it also ordered EPA to continue administering CAIR, ''pending . . . development of a valid replacement rule'' (*Id.* at 38).

The direction from the D.C. Circuit in *EME Homer City* ensures that the reductions associated with CAIR will be enforceable and in place for a number of years. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating the new rule, EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus will remain in force until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a Federal Implementation Plan (FIP) if appropriate. In the meantime, neither the State nor EPA has taken any final action to remove the CAIR requirements from the Missouri SIP. These SIP provisions remain in place and are Federally enforceable.

Further, in vacating CSAPR and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years'' (*EME Homer City,* 696 F.3d at 38). The accumulated reliance interests include the interests of the states who reasonably assumed they could rely on reductions associated with CAIR to meet the requirements of the Regional Haze Rule and, in turn, the requirements of Prong 4 of section 110 (a)(2)(D)(i)(II).

The proposed and final EPA actions cited by the Commenter as support for its argument that EPA has considered CAIR to be temporary all pre-date the vacatur of CSAPR and were based on EPA's expectation that CSAPR would be the replacement for CAIR, and thus CAIR would end soon.[3] At the time of these actions, CAIR was reasonably expected to sunset by operation of law in a fairly short timeframe. That background assumption no longer applies. Based on the vacatur of CSAPR and the Court's related decision to keep CAIR in place, EPA believes that it is appropriate at this time to rely on CAIR emission reductions as permanent and enforceable SIP measures while a valid replacement rule is developed and until implementation plans complying with any such new rule are submitted by the States and acted upon by EPA or until the *EME Homer City* case is resolved in a way that provides different direction regarding CAIR and CSAPR.

EPA is taking final action to approve the infrastructure SIP submission with respect to prong 4 because Missouri's regional haze SIP, to which EPA has given limited approval in combination with its SIP provisions to implement CAIR, adequately prevents sources in Missouri from interfering with measures adopted by other states to protect visibility during the first planning period. While EPA is not at this time proposing to change the June 7, 2012, or June 26, 2012, limited disapproval and limited approval of Missouri's regional haze SIP, EPA expects to propose appropriate action regarding this SIP, if necessary, upon final resolution of the *EME Homer City* litigation. A more detailed rationale to support EPA's approval of prong 4 for Missouri's 1997 and 2006 $PM_{2.5}$ infrastructure submission can be found in EPA's proposed rulemaking for today's final action (78 FR 21281).

Comment 3: The NPCA commented that EPA cannot approve portions of the Missouri infrastructure SIP submissions addressing the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility because these submittals rely on CAIR, and CAIR cannot meet the BART or reasonable progress requirements of the visibility program. NPCA argues that to meet the requirements of the visibility prong of section 110(a)(2)(D)(i)(II), EPA must direct Missouri to develop an implementation plan that meets the BART and reasonable progress requirements of the regional haze rule. In particular, NPCA raised a number of legal arguments in support of its position that section 169A of the CAA requires source-specific BART determinations for power plants and does not allow states to adopt alternative programs, such as CAIR, in lieu of these source-specific requirements. The NPCA also stated that CAIR cannot be used to shield sources from review under the CAA's reasonable progress requirements. NPCA commented that in the absence of a source-specific review to determine reasonable progress measures, it is not possible to determine whether CAIR will fulfill the reasonable progress requirements, assuming it could overcome the lack of enforceability of the program.

Response 3: The visibility prong of section 110(a)(2)(D)(II) of the CAA requires SIPs to ''contain adequate provisions . . . prohibiting . . . any source . . . within the state from emitting any air pollutant in amounts which will . . . interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter . . . to protect visibility.'' We interpret this provision of section 110 of the CAA as requiring states to include in their SIPs measures to prohibit emissions that would interfere with the reasonable progress goals set to protect Class I areas in other states. This is consistent with the requirements in the regional haze program which explicitly require each state to address its share of the emission reductions needed to meet the reasonable progress goals for surrounding Class I areas (40 CFR 51.308(d)(3)(i); *see also* 77 FR 11958, 11962, February 28, 2012). Given this explicit requirement in the regional haze rule, states may satisfy the visibility prong of section 110(a)(2)(D)(II) through an EPA-approved regional haze SIP. EPA issued a limited approval of Missouri's regional haze plan on June 26, 2012, having determined, among other things, that the SIP submittal provided sufficient evidence to demonstrate that its long-term strategy includes all measures necessary to obtain its share of emission reductions needed to address the

[2] On March 29, 2013, EPA and other parties filed petitions seeking Supreme Court review of the D.C. Circuit decision.

[3] On August 21, 2012, the D.C. Circuit issued an opinion to vacate CSAPR and keep CAIR in place pending promulgation of a valid replacement rule. However, the court also ordered the Clerk to withhold issuance of the mandate until seven days after disposition of any timely petition for rehearing or rehearing en banc. All petitions for rehearing were denied on January 24, 2013, and the mandate was issued by the D.C. Circuit on February 4, 2013. As noted above, EPA and other parties subsequently filed petitions seeking Supreme Court review of the D.C. Circuit decision.

impacts of Missouri's emissions sources on Class I areas in other states (77 FR 38007, 38009).

In its comments, however, NPCA argues that important elements of Missouri's approved regional haze SIP do not meet the requirements of section 169A of the CAA. EPA disagrees with the Commenter that the CAA does not allow states to rely on an alternative program such as CAIR in lieu of source-specific BART. EPA's regulations allowing states to adopt alternatives to BART that provide for greater reasonable progress, and the Agency's determination that states may rely on CAIR to meet the BART requirements, have been upheld by the D.C. Circuit, *Utility Air Regulatory Group* v. *EPA,* 471 F.3d 1333 (D.C. Cir. 2006) as meeting the requirements of the CAA. We also note that the regional haze regulations do not require a source-specific analysis of controls for reasonable progress. Even assuming, however, that the Missouri regional haze SIP improperly relied on CAIR to meet the BART and reasonable progress requirements, the NPCA has not shown that the State's plan does not comply with section 110(a)(2)(D)(i).

III. Summary of Final Action

Based upon review of the State's infrastructure SIP submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Missouri's SIP, EPA believes that Missouri has the infrastructure to address all applicable required elements of sections 110(a)(1) and(2) (except otherwise noted) to ensure that the 1997 and 2006 $PM_{2.5}$ NAAQS are implemented in the state. Therefore, EPA is taking final action to approve Missouri's infrastructure SIP submissions for the 1997 and 2006 NAAQS for $PM_{2.5}$ for the following section 110(a)(2) elements and sub-elements: (A), (B), (C), (D)(i)(II) (prongs 3 and 4), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). In addition, EPA is approving two SIP submissions, one addressing the Prevention of Significant Deterioration (PSD) program in Missouri as it relates to $PM_{2.5}$, and another SIP revision addressing the requirements of section 128 of the CAA, both of which support the requirements associated with infrastructure SIPs.

IV. Statutory and Executive Order Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 10, 2013.

Mark Hague,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

■ 2. In § 52.1320:

■ a. The table in paragraph (c) is amended by adding a new Chapter 1 heading in numerical order, adding a new entry 10–1.020 (1) and (2), and revising the entry for 10–6.060.

■ b. The table in paragraph (e) is amended by adding new entries (58), (59) and (60) in numerical order at the end of the table.

The additions read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources Chapter 1—Organization				
10–1.020 (1) and (2)	Commission Voting and Meeting Procedures.	7/30/1998	6/21/2013 [*INSERT **Federal Register** PAGE NUMBER WHERE THE DOCUMENT BEGINS*].	
* * * * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * * * *				
10–6.060	Construction Permits Required.	9/30/2012	6/21/2013 [*INSERT **Federal Register** PAGE NUMBER WHERE THE DOCUMENT BEGINS*].	Provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. In addition, we have not approved Missouri's rule incorporating EPA's 2007 revision of the definition of ''chemical processing plants'' (the ''Ethanol Rule,'' 72 FR 24060 (May 1, 2007) or EPA's 2008 ''fugitive emissions rule,'' 73 FR 77882 (December 19, 2008). Although exemptions previously listed in 10 CSR 10–6.060 have been transferred to 10 CSR 10–6.061, the Federally-approved SIP continues to include the following exemption, ''Livestock and livestock handling systems from which the only potential contaminant is odorous gas.'' Section 9, pertaining to hazardous air pollutants, is not SIP approved.
* * * * * * *				

* * * * * **§ 52.1320 Identification of plan.** (e)* * *

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EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of non-regulatory SIP revision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
* * * * * * *				
(58) Section 110(a)(2) Infrastructure Requirements for the 1997 $PM_{2.5}$ NAAQS.	Statewide	2/27/2007	6/21/2013 [*INSERT CITATION OF PUBLICATION*].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
(59) Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS.	Statewide	12/28/2009	6/21/2013 [*INSERT CITATION OF PUBLICATION*].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS—Continued

Name of non-regulatory SIP revision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(60) Section 128 Declaration: Missouri Air Conservation Commission Representation and Conflicts of Interest Provisions; Missouri Revised Statutes (RSMo) RSMo 105.450, RSMo 105.452, RSMo 105.454, RSMo 105.462, RSMo 105.463, RSMo 105.466, RSMo 105.472, and RSMo 643.040.2.	Statewide	8/08/2012	6/21/2013 [*INSERT CITATION OF PUBLICATION*].	

[FR Doc. 2013–14755 Filed 6–20–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA–HQ–OW–2013–0300; FRL–9818–2]

Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures

Correction

In rule document 2013–12729, appearing on pages 32558–32574 in the issue of Friday, May 31, 2013, make the following correction:

PART 141—[CORRECTED]

Beginning on page 32570, with the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.25(A)'', the tables are corrected to read as set forth below:

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.25(a)

Contaminant	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	ASTM [4]
Naturally Occurring:				
Gross alpha and beta	Evaporation	7110 B	7110 B	
Gross alpha	Coprecipitation	7110 C	7110 C	
Radium 226	Radon emanation	7500–Ra C	7500–Ra C	D3454–05
	Radiochemical	7500–Ra B	7500–Ra B	D2460–07
Radium 228	Radiochemical	7500–Ra D	7500–Ra D	
Uranium	Radiochemical	7500–U B	7500–U B	
	ICP–MS	3125		D5673–05, 10
	Alpha spectrometry	7500–U C	7500–U C	D3972–09
	Laser Phosphorimetry			D5174–07
	Alpha Liquid Scintillation Spectrometry			D6239–09
Man-Made:				
Radioactive Cesium	Radiochemical	7500–Cs B	7500–Cs B	
	Gamma Ray Spectrometry	7120	7120	D3649–06
Radioactive Iodine	Radiochemical	7500–I B	7500–I B	D3649–06
		7500–I C	7500–I C	
		7500–I D	7500–I D	
	Gamma Ray Spectrometry	7120	7120	D4785–08
Radioactive Strontium 89, 90	Radiochemical	7500–Sr B	7500–Sr B	
Tritium	Liquid Scintillation	7500–^{3}H B	7500–^{3}H B	D4107–08
Gamma Emitters	Gamma Ray Spectrometry	7120	7120	D3649–06
		7500–Cs B	7500–Cs B	D4785–08
		7500–I B	7500–I B	

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.74(a)(1)

Organism	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	Other
Total Coliform	Total Coliform Fermentation Technique	9221 A, B, C	9221 A, B, C	
	Total Coliform Membrane Filter Technique	9222 A, B, C.		
	ONPG–MUG Test	9223	9223 B	
Fecal Coliforms	Fecal Coliform Procedure	9221 E	9221 E	
	Fecal Coliform Filter Procedure	9222 D	9222 D	
Heterotrophic bacteria	Pour Plate Method	9215 B	9215 B	
Turbidity	Nephelometric Method	2130 B	2130 B	

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.74(a)(1)—Continued

Organism	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	Other
	Laser Nephelometry (on-line)			Mitchell M5271 [10]
	LED Nephelometry (on-line)			Mitchell M5331 [11]
	LED Nephelometry (on-line)			AMI Turbiwell [15]
	LED Nephelometry (portable)			Orion AQ4500 [12]

ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.74(a)(2)

Residual	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	ASTM [4]	Other
Free Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G.		
	Syringaldazine (FACTS)	4500–Cl H	4500–Cl H.		
	On-line Chlorine Analyzer				EPA 334.0 [16]
	Amperometric Sensor				ChloroSense [17]
Total Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08.	
	Amperometric Titration (Low level measurement)	4500–Cl E	4500–Cl E.		
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G.		
	Iodometric Electrode	4500–Cl I	4500–Cl I.		
	On-line Chlorine Analyzer				EPA 334.0 [16]
	Amperometric Sensor				ChloroSense [17]
Chlorine Dioxide	Amperometric Titration	4500–ClO_2 C	4500–ClO_2 C.		
	Amperometric Titration	4500–ClO_2 E	4500–ClO_2 E.		
Ozone	Indigo Method	4500–O_3 B	4500–O_3 B.		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.131(b)(1)

Contaminant	Methodology	EPA method	ASTM [4]	SM 21st Edition [1]	SM 22nd Edition [28]
TTHM	P&T/GC/MS	524.3 [9], 524.4 [29].			
HAA5	LLE (diazomethane)/GC/ECD			6251 B	6251 B.
	Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS).	557 [14].			
Bromate	Two-Dimensional Ion Chromatography (IC).	302.0 [18].			
	Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS).	557 [14].			
	Chemically Suppressed Ion Chromatography.		D 6581–08 A.		
	Electrolytically Suppressed Ion Chromatography.		D 6581–08 B.		
Chlorite	Chemically Suppressed Ion Chromatography.		D 6581–08 A.		
	Electrolytically Suppressed Ion Chromatography.		D 6581–08 B.		
Chlorite—daily monitoring as prescribed in 40 CFR 141.132(b)(2)(i)(A).	Amperometric Titration			4500–ClO_2 E	4500–ClO_2 E.

ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.131(c)(1)

Residual	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	ASTM [4]	Other
Free Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G.		
	Syringaldazine (FACTS)	4500–Cl H	4500–Cl H.		
	Amperometric Sensor				ChloroSense. [17]
	On-line Chlorine Analyzer				EPA 334.0. [16]
Combined Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G.		
Total Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08.	

ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.131(c)(1)—Continued

Residual	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	ASTM [4]	Other
	Low level Amperometric Titration	4500–Cl E	4500–Cl E.		
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G.		
	Iodometric Electrode	4500–Cl I	4500–Cl I.		
	Amperometric Sensor				ChloroSense.[17]
	On-line Chlorine Analyzer				EPA 334.0.[16]
Chlorine Dioxide	Amperometric Method II	4500–ClO_2 E	4500–ClO_2 E.		

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ALTERNATIVE TESTING METHODS FOR PARAMETERS LISTED AT 40 CFR 141.131(d)

Parameter	Methodology	SM 21st Edition [1]	SM 22nd Edition [28]	EPA
Total Organic Carbon (TOC)	High Temperature Combustion	5310 B	5310 B	415.3, Rev 1.2 [19]
	Persulfate-Ultraviolet or Heated Persulfate Oxidation.	5310 C	5310 C	415.3, Rev 1.2 [19]
	Wet Oxidation	5310 D	5310 D	415.3, Rev 1.2 [19]
Specific Ultraviolet Absorbance (SUVA)	Calculation using DOC and UV_{254} data			415.3, Rev 1.2 [19]
Dissolved Organic Carbon (DOC)	High Temperature Combustion	5310 B	5310 B	415.3, Rev 1.2 [19]
	Persulfate-Ultraviolet or Heated Persulfate Oxidation.	5310 C	5310 C	415.3, Rev 1.2 [19]
	Wet Oxidation	5310 D	5310 D	415.3, Rev 1.2 [19]
Ultraviolet absorption at 254 nm (UV_{254})	Spectrophotometry	5910 B	5910 B	415.3, Rev 1.2 [19]

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ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.402(c)(2)

Organism	Methodology	SM 20th Edition [6]	SM 21st Edition [1]	SM 22nd Edition [28]	SM Online [3]	Other
E. coli	Colilert®		9223 B	9223 B	*9223 B–97.*	
	Colisure®		9223 B	9223 B	*9223 B–97.*	
	Colilert-18	9223 B	9223 B	9223 B	*9223 B–97.*	
	Readycult®					Readycult® [20]
	Colitag					Modified Colitag™ [13]
	Chromocult®					Chromocult® [21]
	EC–MUG			*9221 F.*		
Enterococci	Multiple-Tube Technique				*9230 B–04.*	
Coliphage	Two-Step Enrichment Presence-Absence Procedure.					Fast Phage [30]

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ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.852(a)(5)

Organism	Methodology category	Method	SM 22nd Edition [28]
Total Coliforms	Lactose Fermentation Methods	Standard Total Coliform Fermentation Technique.	9221 B.1, B.2
	Enzyme Substrate Methods	Colilert®	9223 B
		Colisure®	9223 B
Escherichia coli	*Escherichia coli* Procedure (following Lactose Fermentation Methods).	EC–MUG medium	9221 F.1
	Enzyme Substrate Methods	Colilert®	9223 B
		Colisure®	9223 B

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 143.4(b)

Contaminant	Methodology	EPA method	ASTM [4]	SM 21st Edition [1]	SM 22nd Edition [28]	SM online [3]
Aluminum	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2[2]				
	Atomic Absorption; Direct.			3111 D	3111 D.	
	Atomic Absorption; Furnace.			3113 B	3113 B	3113 B–04
	Inductively Coupled Plasma.			3120 B	3120 B.	
Chloride	Silver Nitrate Titration		D 512–04 B	4500-Cl^- B	4500-Cl^- B.	
	Ion Chromatography			4110 B	4110 B.	
	Potentiometric Titration.			4500-Cl D	4500-Cl D.	
Color	Visual Comparison			2120 B	2120 B.	
Foaming Agents	Methylene Blue Active Substances (MBAS).			5540 C	5540 C.	
Iron	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]				
	Atomic Absorption; Direct.			3111 B	3111 B.	
	Atomic Absorption; Furnace.			3113 B	3113 B	3113 B–04
	Inductively Coupled Plasma.			3120 B	3120 B.	
Manganese	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]				
	Atomic Absorption; Direct.			3111 B	3111 B.	
	Atomic Absorption; Furnace.			3113 B	3113 B	3113 B–04
	Inductively Coupled Plasma.			3120 B	3120 B.	
Odor	Threshold Odor Test			2150 B	2150 B.	
Silver	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]				
	Atomic Absorption; Direct.			3111 B	3111 B.	
	Atomic Absorption; Furnace.			3113 B	3113 B	3113 B–04
	Inductively Coupled Plasma.			3120 B	3120 B.	
Sulfate	Ion Chromatography			4110 B	4110 B.	
	Gravimetric with ignition of residue.			4500–SO_4^{2-} C.	4500–SO_4^{2-} C.	4500–SO_4^{2-} C–97
	Gravimetric with drying of residue.			4500–SO_4^{2-} D.	4500–SO_4^{2-} D.	4500–SO_4^{2-} D–97
	Turbidimetric method		D 516–07, 11	4500–SO_4^{2-} E.	4500–SO_4^{2-} E.	4500–SO_4^{2-} E–97
	Automated methylthymol blue method.			4500–SO_4^{2-} F	4500–SO_4^{2-} F	4500–SO_4^{2-} F–97
Total Dissolved Solids.	Total Dissolved Solids Dried at 180 deg C.			2540 C	2540 C.	
Zinc	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]				
	Atomic Absorption; Direct Aspiration.			3111 B	3111 B.	

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 143.4(b)—Continued

Contaminant	Methodology	EPA method	ASTM [4]	SM 21st Edition [1]	SM 22nd Edition [28]	SM online [3]
	Inductively Coupled Plasma.	.....	.....	3120 B	3120 B.	

[1] *Standard Methods for the Examination of Water and Wastewater,* 21st edition (2005). Available from American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

[2] EPA Method 200.5, Revision 4.2. ''Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry.'' 2003. EPA/600/R–06/115. (Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*)

[3] Standard Methods Online are available at *http://www.standardmethods.org.* The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[4] Available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959 or *http://astm.org.* The methods listed are the only alternative versions that may be used.

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[6] *Standard Methods for the Examination of Water and Wastewater,* 20th edition (1998). Available from American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

[7] Method ME355.01, Revision 1.0. ''Determination of Cyanide in Drinking Water by GC/MS Headspace,'' May 26, 2009. Available at *https://www.nemi.gov* or from James Eaton, H & E Testing Laboratory, 221 State Street, Augusta, ME 04333. (207) 287–2727.

[8] Systea Easy (1-Reagent). ''Systea Easy (1-Reagent) Nitrate Method,'' February 4, 2009. Available at *https://www.nemi.gov* or from Systea Scientific, LLC., 900 Jorie Blvd., Suite 35, Oak Brook, IL 60523.

[9] EPA Method 524.3, Version 1.0. ''Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' June 2009. EPA 815–B–09–009. Available at *http://water.epa.gov/drink/.*

[10] Mitchell Method M5271, Revision 1.1. ''Determination of Turbidity by Laser Nephelometry,'' March 5, 2009. Available at *https://www.nemi.gov* or from Leck Mitchell, Ph.D., PE, 656 Independence Valley Dr., Grand Junction, CO 81507.

[11] Mitchell Method M5331, Revision 1.1. ''Determination of Turbidity by LED Nephelometry,'' March 5, 2009. Available at *https://www.nemi.gov* or from Leck Mitchell, Ph.D., PE, 656 Independence Valley Dr., Grand Junction, CO 81507.

[12] Orion Method AQ4500, Revision 1.0. ''Determination of Turbidity by LED Nephelometry,'' May 8, 2009. Available at *https://www.nemi.gov* or from Thermo Scientific, 166 Cummings Center, Beverly, MA 01915, *http://www.thermo.com.*

[13] Modified Colitag™ Method. ''Modified Colitag™ Test Method for the Simultaneous Detection of *E. coli* and other Total Coliforms in Water (ATP D05–0035),'' August 28, 2009. Available at *https://www.nemi.gov* or from CPI International, 5580 Skylane Boulevard, Santa Rosa, CA 95403.

[14] EPA Method 557. ''Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS),'' September 2009. EPA 815–B–09–012. Available at *http://water.epa.gov/drink/.*

[15] AMI Turbiwell, ''Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter,'' August 2009. Available at *https://www.nemi.gov* or from Markus Bernasconi, SWAN Analytische Instrumente AG, Studbachstrasse 13, CH–8340 Hinwil, Switzerland.

[16] EPA Method 334.0. ''Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer,'' September 2009. EPA 815–B–09–013. Available at *http://water.epa.gov/drink/.*

[17] ChloroSense. ''Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense,'' August 2009. Available at *https://www.nemi.gov* or from Palintest Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

[18] EPA Method 302.0. ''Determination of Bromate in Drinking Water using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection,'' September 2009. EPA 815–B–09–014. Available at *http://water.epa.gov/drink/.*

[19] EPA 415.3, Revision 1.2. ''Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water,'' September 2009. EPA/600/R–09/122. Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*

[20] Readycult® Method, ''Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters,'' January, 2007. Version 1.1. Available from EMD Millipore (division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821.

[21] Chromocult® Method, ''Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters,'' November, 2000. Version 1.0. EMD Millipore (division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821.

[22] Hach Company. ''Hach Company SPADNS 2 (Arsenite-Free) Fluoride Method 10225—Spectrophotometric Measurement of Fluoride in Water and Wastewater,'' January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539. (Available at *http://www.hach.com.*)

[23] Hach Company. ''Hach Company TNTplus™ 835/836 Nitrate Method 10206—Measurement of Nitrate in Water and Wastewater,'' January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado. (Available at *http://www.hach.com.*)

[24] EPA Method 525.3. ''Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),'' February 2012. EPA/600/R–12/010. Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*

[25] EPA Method 536. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS),'' October 2007. EPA 815–B–07–002. Available at *http://water.epa.gov/drink.*

[26] EPA Method 523. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS),'' February 2011. EPA 815–R–11–002. Available at *http://water.epa.gov/drink.*

[27] EPA Method 1623.1. ''*Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA,'' 2012. EPA–816–R–12–001. (Available at *http://water.epa.gov/drink.*)

[28] *Standard Methods for the Examination of Water and Wastewater,* 22nd edition (2012). Available from American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

[29] EPA Method 524.4, Version 1.0. ''Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry using Nitrogen Purge Gas,'' May 2013. EPA 815–R–13–002. Available at *http://water.epa.gov/drink.*

[30] Charm Sciences Inc. ''Fast Phage Test Procedure. Presence/Absence for Coliphage in Ground Water with Same Day Positive Prediction''. Version 009. November 2012. 659 Andover Street, Lawrence, MA 01843. Available at *www.charmsciences.com.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0177; FRL–9387–3]

Cyproconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyproconazole in or on peanut and peanut, hay. Syngenta Crop Protection, LLC. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 21, 2013. Objections and requests for hearings must be received on or before August 20, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0177, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Shaunta Hill, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8961; email address: *hill.shaunta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's eCFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0177 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 20, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0177, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of May 23, 2012 (77 FR 30481) (FRL–9347–8), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F7956) by Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 24719. The petition requested that 40 CFR 180.485 be amended by establishing tolerances for residues of the fungicide cyproconazole, in or on peanut, hay at 6.0 parts per million (ppm), and peanut, nutmeat; peanut, meal; peanut, butter; and peanut, refined oil at 0.03 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no substantive comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the requested tolerance levels and crops for which tolerances were needed. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a

tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for cyproconazole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with cyproconazole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The acute studies demonstrate that cyproconazole is moderately toxic by the oral, dermal, and inhalation routes. It is neither an eye nor dermal irritant. Cyproconazole did not cause dermal sensitization. Consistent with similar anti-fungal pesticide active ingredients in this class (e.g., tetraconazole), the critical toxicological effects for cyproconazole in mammals appear to be indicative of hepatotoxicity. These effects include elevated levels of the liver enzymes lactate dehydrogenase (LDH) and aspartate aminotransferase, increased liver weight (relative and absolute), vacuolization, fatty changes, hepatocytomegaly, hypertrophy, and single-cell necrosis. For both subchronic and chronic durations, hepatotoxicity was observed in rats, mice and dogs, and all of these species appeared to be equally sensitive to cyproconazole toxicity with regards to the range of the doses tested (~0.5 to 130 milligrams/kilogram/day (mg/kg/day)). Other notable effects seen in rat subchronic oral feeding studies included increased macrophages in the lung, increased white blood cell counts and globulins, decreased spleen weights, histocytosis of the spleen, and spleen micropathology.

There are two dermal toxicity studies submitted for cyproconazole, both showing effects similar to the oral studies. In the 21-day study, dermal exposure to cyproconazole resulted in decreased body-weight gain and food consumption (males), increased aspartate aminotransferase (males), increased creatinine (females), and increased cholesterol in both sexes at the highest dose tested (1,250 mg/kg/day). In the 28-day study, toxicity occurred at the mid-dose (100 mg/kg/day). These effects included increased plasma globulin, protein and cholesterol, and hemosiderin deposition in the spleen in females (1,000 mg/kg/day in males), hypertrophy of the thyroid follicular epithelium in both males and females, and increased incidences of centrilobular hepatocellular hypertrophy in males (1,000 mg/kg/day in females).

The developmental studies indicate that cyproconazole causes developmental toxicity. There are two developmental toxicity studies in rabbits, which were more sensitive for developmental effects than the rat. In the older study using chinchilla rabbits, the pups showed increased susceptibility with toxicity occurring at the lowest dose tested (2 mg/kg/day, the developmental no observed adverse effect level (NOAEL) was not established). These effects included increased incidences of hydrocephalus internus (abnormal accumulation of cerebral spinal fluid in the ventricles of the brain). The maternal lowest observed adverse effect level (LOAEL) was 10 mg/kg/day. This developmental toxicity study was classified unacceptable and does not satisfy the guideline requirement for a developmental toxicity study (OPPTS Guideline 870.3700; OECD 414) in the rabbit because the concentrations of test material were not within the acceptable range (±15% of nominal concentration) for the mid- and high-dose suspensions immediately after preparation. In the most recent study using New Zealand white rabbits, cyproconazole produced increased incidences of malformed fetuses and litters with malformed fetuses (hydrocephalus and kidney agenesis) at doses lower than the doses that produced maternal toxicity (50 mg/kg/day for dams and 10 mg/kg/day for fetuses). In rats, cyproconazole increased the incidences of supernumerary ribs at the same doses at which maternal adverse effects (decreased body-weight gain) were observed (12 mg/kg/day). There was no evidence of reproductive toxicity in the 2-generation reproduction toxicity study. The parental toxicity in the 2-generation reproduction study was manifested as increased lipid storage and relative liver weights in males and increased relative liver weights in females (8.29 mg/kg/day). No offspring toxicity was observed at any of the doses tested.

Although there was evidence of carcinogenicity found in a mouse study, EPA has determined that cyproconazole is ''not likely to be carcinogenic to humans'' at doses that do not cause a mitogenic response in the liver (Ref. 1). In contrast to rodent cells, there are some limited data to suggest that constitutive androstane receptor (CAR) activation does not stimulate cell proliferation or inhibit apoptosis in human cells. However, the literature does not yet support the conclusion that CAR activation is not biologically plausible in humans. This conclusion is based on the weight of evidence that supports a non-genotoxic mitogenic mode of action for cyproconazole. The activation of the CAR receptor, the required initiating event, leads to a cascade of key events resulting in liver tumor development in mice. The data did not support: (1) Peroxisome proliferation, (2) mutagenesis, or (3) cytotoxicity followed by sustained regenerative proliferation as alternative modes of action. The quantification of carcinogenic potential is not required. The current reference dose (RfD) of 0.01 mg/kg/day is based on a 1-year dog study in which hepatotoxicity and organ weight changes were seen at 3.2 mg/kg/day and no adverse effects were observed at 1 mg/kg/day (NOAEL). This RfD would be protective of any liver effects caused by cyproconazole in the mouse toxicity studies or mode of action studies at higher doses.

There is no evidence of targeted neurotoxicity in the toxicity database. There were no central nervous system (CNS) malformations present in the developmental toxicity studies in rats and rabbits. In a 2-generation reproduction study in rats, there were no findings in pups that were suggestive of changes in neurological development. Additionally, there was no evidence of neurotoxicity in other studies.

Finally, there is no evidence that cyproconazole is an immunotoxicant. Although there is no immunotoxicity study currently available for cyproconazole, the available data indicate that cyproconazole does not have immunotoxic effects. This is consistent with the fact that the target organ is the liver, which is similar to the other triazole fungicides, which do not have immunotoxic effects.

Specific information on the studies received and the nature of the adverse effects caused by cyproconazole as well as the NOAEL and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Cyproconazole. Tolerance Petition for

Residues in/on Peanuts, Human-Health Risk Assessment'' in docket ID number EPA–HQ–OPP–2012–0177.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for cyproconazole used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR CYPROCONAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure scenario	POD	Uncertainty/FQPA SF	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute Dietary (General population, including infants and children).	N/A	N/A	N/A	A dose and endpoint attributable to a single dose were not identified in the database including the developmental toxicity studies.
Acute Dietary (Females 13–49 years of age).	NOAEL = 2 mg/kg/day	UF_A = 10X UF_H = 10X FQPA SF = 1X	aPAD = aRfD = 0.02 mg/kg/day.	Prenatal Developmental toxicity Study—New Zealand white rabbits Developmental LOAEL = 10 mg/kg/day based on increased incidence of malformed fetuses and litters with malformed fetuses.
Chronic Dietary (All populations).	NOAEL = 1.0 mg/kg/day.	UF_A = 10X UF_H = 10X FQPA SF = 1X	cPAD = cRfD = 0.01 mg/kg/day.	Chronic oral toxicity study—dog LOAEL = 3.2 mg/kg/day based on liver effects (P450 induction in females and histopathology, laminar eosinophilic intrahepatocytic bodies in males).
Short (1–30 days)- and Intermediate (1–6 months)-Term Dermal.	NOAEL = 10 mg/kg/day.	UF_A = 10X UF_H = 10X FQPA SF = 1X	Residential LOC for MOE = 100.	28-Day Dermal Study—rat LOAEL = 100 mg/kg/day, based on increased plasma globulin, protein and cholesterol, and hemosiderin deposition in the spleen in females, and hypertrophy of the thyroid follicular epithelium in both males and females.
Cancer (oral, dermal, inhalation).	EPA has classified cyproconazole as ''not likely to be carcinogenic to humans'', according to EPA *Proposed Guidelines for Carcinogen Risk Assessment* (April 10, 1996).			

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligrams/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyproconazole, EPA considered exposure under the petitioned-for tolerances as well as all existing cyproconazole tolerances in 40 CFR 180.485. EPA assessed dietary exposures from cyproconazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In conducting the acute dietary exposure assessment, EPA used the food consumption data from the U.S. Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, an unrefined acute dietary exposure and risk analysis was performed assuming tolerance-level residues, 100% crop treated, DEEM (ver. 7.81) default processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA's NHANES/WWEIA. This dietary survey was conducted from 2003 to 2008. An unrefined chronic dietary exposure and risk analysis was performed assuming tolerance-level residues, 100% crop treated, DEEM (ver. 7.81) default processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that cyproconazole does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for cyproconazole. Tolerance-level

residues and 100% crop treated was assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for cyproconazole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of cyproconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of cyproconazole for acute exposures are estimated to be 113 parts per billion (ppb) for surface water and 1.52 ppb for ground water. For chronic exposures for non-cancer assessments are estimated to be 43 ppb for surface water and 1.52 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. Since the EDWC estimates from surface water were higher than those from ground water, EDWC estimates in surface water were used in both acute and chronic dietary risk assessments.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyproconazole is not registered for any specific use patterns that would result in residential handler exposure. Cyproconazole is proposed for use on golf course turf, which may result in post-application dermal exposure to golfers (both adults and children). No chemical-specific data were available to assess potential short-term dermal post-application exposures to adult and youth golfers. Therefore, a series of assumptions and exposure factors served as the basis for completing the residential post-application risk assessment. Each assumption and factor is detailed in the 2012 Residential SOPs (*http://www.epa.gov/pesticides/science/residential-exposure-sop.html*). Post-application oral and inhalation exposures, as well as residential handler exposures, are not expected based on the current use patterns for cyproconazole. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Cyproconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events (Ref. 2). In conazoles, however, a variable pattern of toxicological responses is found; some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

Cyproconazole is a triazole-derived pesticide. This class of compounds can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazolylalanine and triazolylacetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including cyproconazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine, and triazolylacetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA Safety Factor for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the propiconazole reregistration docket at *http://www.regulations.gov,* docket identification (ID) number EPA–HQ–OPP–2005–0497.

An updated dietary exposure and risk analysis for the common triazole metabolites 1,2,4-triazole (T), triazolylalanine (TA), triazolylacetic acid (TAA), and triazolylpyruvic acid (TP) was conducted and completed in August 2012, in association with a registration request for the triazole fungicide, propiconazole. Residue data demonstrated that there was no increase in exposure to the common triazole metabolites with the proposed use. The tolerances for cyproconazole in/on peanuts covered by this action are not expected to change the risk of exposure to the triazoles determined in that risk analysis. The document, titled ''*Common Triazole Metabolites: Updated Aggregate Human Health Risk Assessment to Address the Amended Propiconazole Section 3 Registration to Add Use on Sugarcane''* may be found in docket ID number EPA–HQ–OPP–2012–0427.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There are no residual uncertainties with regard to prenatal and postnatal toxicity, and the database is complete for purposes of assessing prenatal and postnatal toxicity. There is evidence that cyproconazole is a developmental

toxicant; however, the LOC is low since: (1) The effects in fetuses are well-characterized with a clear NOAEL and (2) the developmental toxicity study where increased susceptibility was observed is being used for the acute dietary endpoint (females 13–49 years), which will be protective of effects in infants and children. There is no evidence of reproductive toxicity or neurotoxicity in the cyproconazole database.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for cyproconazole is complete, except for an immunotoxicity study. As noted in Unit III.A., the concern for the lack of this study is low because there is no evidence that cyproconazole causes immunotoxic effects. EPA does not believe that an immunotoxicity study will result in a lower point of departure (POD) than that which is currently in use for overall risk assessment. As such, a database uncertainty factor is not necessary to account for the lack of an immunotoxicity study.

ii. There is no indication that cyproconazole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. While there is evidence that exposure to cyproconazole results in increased susceptibility in *in utero* rabbits, EPA does not believe that the FQPA safety factor of 10X is necessary to protect infants and children for the reasons stated in Unit III.D.2. above.

iv. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to cyproconazole in drinking water. These assessments will not underestimate the exposure and risks posed by cyproconazole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyproconazole will occupy 32% of the aPAD for females 13–49 years old. The acute dietary exposure and risk analysis was conducted only for females 13–49 years old since an endpoint of concern attributable to a single dose for the general population was not identified.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyproconazole from food and water will utilize 28% of the cPAD for infants (<1 years old), the population group receiving the greatest exposure. There are no residential uses for cyproconazole.

3. *Short-term risk.* Short-term aggregate exposure is calculated by aggregating short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term adverse effect was identified; however, cyproconazole is not currently registered for any use patterns that would result in short-term residential exposure. In consideration of a pending turf use for cyproconazole, a short-term aggregate assessment was completed. The pending golf course use is the only use that may result in residential exposure. The golfer exposure (dermal) represents the highest residential exposure of all potential adult exposure scenarios. Therefore, the short-term assessment is protective of all potential exposures resulting from the pending golf course use. For the short-term aggregate assessment, the short-term oral NOAEL of 1.5 mg/kg/day (from the 90-day oral rat study) is compared to the total (dietary + residential) exposure to calculate risk. Since the aggregate MOEs are greater than 100, the calculated risks do not exceed the Agency's LOCs.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). There are no residential scenarios that result in intermediate-term exposure; therefore, an intermediate-term aggregate exposure and risk assessment is not required.

5. *Aggregate cancer risk for U.S. population.* Although there was evidence of carcinogenicity found in a mouse study, EPA has determined that cyproconazole is ''not likely to be carcinogenic to humans'' at doses that do not cause a mitogenic response in the liver (Ref. 1). As a result, an aggregate cancer exposure and risk assessment is not required, as cyproconazole is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to cyproconazole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatograph/nitrogen-phosphorus detection) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for cyproconazole.

C. Revisions to Petitioned-for Tolerances

The Agency is correcting the commodity terminology for peanut by establishing a tolerance for peanut, rather than peanut, nutmeat. In addition, the Agency has modified the levels for which tolerances are being established for peanut (0.03 to 0.01 ppm). Based on an analysis of the residue data using the OECD tolerance calculation procedures, the tolerance for peanut is based on the limit of quantitation (0.01 ppm). Following exaggerated-rate applications of cyproconazole, average residues of

cyproconazole were below the limit of quantitation in/on peanut, meal, refined oil, and butter; therefore, processing factors could not be calculated. Accordingly, separate tolerances for residues of cyproconazole are not required for peanut, meal, refined oil, and peanut butter.

Also, EPA has revised the tolerance expression for cyproconazole 40 CFR 180.485 to clarify:

1. That as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of cyproconazole.

2. That compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of cyproconazole, in or on peanut and peanut, hay at 0.01 and 6.0 ppm, respectively.

VI. References

The following is a listing of the documents that are specifically referenced in this rule.

1. J. Kidwell, *et al.,* December 4, 2007. Cyproconazole: Fourth Report of the Cancer Assessment Review Committee PC Code: 128993.

2. Environmental Protection Agency. January 14, 2002. Guidance on Cumulative Risk Assessment of Pesticide Chemicals That Have a Common Mechanism of Toxicity.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 11, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.485 is amended as follows:

■ a. Revise paragraph (a)(1) introductory text.

■ b. Add alphabetically the entries ''peanut'' and ''peanut, hay'' to the table in paragraph (a)(1).

■ c. Revise paragraph (a)(2) introductory text.

■ d. Revise paragraph (a)(3) introductory text.

The amendments read as follows:

§ 180.485 Cyproconazole; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the free and conjugated forms of the fungicide cyproconazole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the proposed tolerance levels specified below is to be determined by measuring only cyproconazole (α-(4-chlorophenyl)-α-(1-cyclopropylethyl)-1*H*-1,2,4-triazole-1-ethanol) in or on the following commodities:

Commodity	Parts per million
* * * * *	
Peanut	0.01
Peanut, hay	6.0
* * * * *	

* * * * *

(2) A tolerance is established for the combined residues of the free and conjugated forms of the fungicide cyproconazole, including its metabolites and degradates, in or on the commodity in the table below. Compliance with the tolerance level specified below is to be determined by measuring only the sum of cyproconazole (α-(4-chlorophenyl)-α-(1-cyclopropylethyl)-1*H*-1,2,4-triazole-1-ethanol) and its metabolite δ-(4-chlorophenyl)-β,δ-dihydroxy-γ-methyl-1*H*-1,2,4-triazole-1-hexenoic acid, calculated as the stoichiometric equivalent of cyproconazole, in or on the following commodity:

* * * * *

(3) Tolerances are established for the combined residues of the free and conjugated forms of the fungicide cyproconazole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance level specified below is to be determined by measuring only the sum of cyproconazole (α-(4-chlorophenyl)-α-(1-cyclopropylethyl)-1*H*-1,2,4-triazole-1-ethanol) and its metabolite 2-(4-chlorophenyl)-3-cyclopropyl-1-[1,2,4]triazol-1-yl-butane-2,3-diol, calculated as the stoichiometric equivalent of cyproconazole, in or on the following commodities:

* * * * *

[FR Doc. 2013–14914 Filed 6–20–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 13

[WT Docket No. 10–177; FCC 13–4]

Commercial Radio Operators

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (FCC) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with commercial radio licenses, as well as for Commercial Operator License Examination Managers (COLEM(s)) that administer commercial radio operator licenses across the United States.

DATES: The amendments to 47 CFR 13.9, 13.13(c), 13.17(b), 13.211(e) and 13.217 published at 78 FR 23150, April 18, 2013 became effective June 7, 2013.

FOR FURTHER INFORMATION CONTACT: Stana Kimball, Mobility Division, Wireless Telecommunications Bureau, (202) 418–1306 or via the Internet at: *stanislava.kimball@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that on June 7, 2013 OMB approved, for a period of three years, the information collection requirements contained in the Commission's Report and Order, FCC 13–4, published at 78 FR 23150, April 18, 2013. The OMB Control Number is 3060–0537. The Commission publishes this notice as an announcement of such approval.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that on June 7, 2013 it received OMB approval for the information collection requirements contained in the modifications to the Commission's rules found in 47 CFR 13.9, 13.13(c), 13.17(b), 13.211(e) and 13.217.

Under 5 CFR 13.20, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0537.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0537.

OMB Approval Date: June 7, 2013.

OMB Expiration Date: June 30, 2016.

Title: Sections 13.9, 13.13(c), 13.17(b), 13.211(e) and 13.217, Commercial Operator License Examination Managers (COLEM) Records.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 9 respondents; 9 responses.

Estimated Time per Response: 0.44 hours up to 30 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154 and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 14,796 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Each COLEM recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover from January to December 31 of the preceding year and must be submitted as directed by the FCC. Each COLEM must retain records for three years and the records must be made available to the FCC upon request.

The records are journal entries showing revenues collected and expenses incurred. The records may be inspected by FCC field investigators. The records will provide a vehicle for the FCC to cancel the designation of a person or organization as an examination manager. If the information were not collected, it is conceivable that fraud and abuse could occur in the commercial operator examination program.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–14764 Filed 6–20–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–352; RM–11686; DA 13–315]

Radio Broadcasting Services; Dove Creek, Colorado

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Cochise Media Licenses, LLC, allots FM Channel 229C3 as a first local transmission service at Dove Creek, Colorado. Channel 229C3 can be allotted at Dove Creek, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 37–48–05 NL and 108–59–33 WL. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: Effective July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 12–352, adopted February 28, 2013, and released March 1, 2013. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* This document does

not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Dove Creek, Channel 229C3.

[FR Doc. 2013–14762 Filed 6–20–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130403319–3545–02]

RIN 0648–BD13

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2013

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing management measures for the 2013 summer flounder, scup, and black sea bass recreational fisheries. This rule also implements an increase in the 2013 and 2014 black sea bass specifications, consistent with a new acceptable biological catch recommendation. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Effective June 20, 2013.

ADDRESSES: Copies of the Supplemental Environmental Assessment (SEA) for the 2013 recreational management measures document, including the Supplemental Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (SEA/RIR/IRFA) and other supporting documents for the recreational management measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states from North Carolina to Maine manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern fishing activity in the EEZ, as well as vessels possessing Federal permits for summer flounder, scup, and/or black sea bass, regardless of where they fish.

A proposed rule to implement the 2013 Federal recreational measures for the summer flounder, scup, and black sea bass recreational fisheries was published on April 29, 2013 (78 FR 25052). Additional background and information is provided in the preamble to the proposed rule and is not repeated here.

2013 and 2014 Black Sea Bass Specifications and 2013 Recreational Management Measures

In this rule, NMFS is implementing management measures for the 2013 summer flounder, scup, and black sea bass recreational fisheries. This rule also implements an increase in the 2013 and 2014 black sea bass specifications, consistent with a new acceptable biological catch (ABC) recommendation. All minimum fish sizes discussed hereafter are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

Black Sea Bass Specifications

The process for establishing specifications was summarized in the proposed rule and is not repeated here. At its December 2012 meeting, the Council requested that the Scientific and Statistical Committee (SSC) revisit the 2013 black sea bass specifications and make a recommendation for the 2014 fishing year. On January 23, 2013, the SSC met to reconsider these specifications and recommended an increase in the specifications for both the 2013 and 2014 fishing years. The SSC revised its recommendation for the 2013 and 2014 black sea bass ABC to 5.5 million lb (2,495 mt). The Council voted at its February 2013 meeting to recommend that the new ABC be implemented in conjunction with the recreational management measures. The following table provides the initial specifications for black sea bass for 2013 that were established in the specifications final rule (December 31, 2012; 77 FR 76942) and the revised specifications for 2013 and 2014 that are implemented in this rule.

TABLE 1—BLACK SEA BASS SPECIFICATIONS

	Original 2013 specifications		New specifications for 2013 and 2014 (million lb)	
	million lb	mt	million lb	mt
ABC	4.50	2,041	5.50	2,495
Commercial ACL & ACT	2.13	966	2.60	1,179
Commercial Quota	1.78	805	2.17	986
Recreational ACL & ACT	2.37	1,075	2.90	1,315
Recreational Harvest Limit	1.85	838	2.26	1,026

As a result of this increase in the black sea bass catch limits, there is a corresponding increase of 25,000 lb (11.3 mt) of black sea bass in the available Research Set-Aside (RSA). Of the total 140,000 lb (65.5 mt) of black sea bass RSA now available, 129,420 lb (58.7 mt) have been awarded. The resulting difference of 10,580 lb (4.8 mt) is redistributed to the recreational harvest limit and the commercial quota, proportionally based on the sector allocations specified in the FMP (i.e., 49 percent to the commercial sector and 51 percent to the recreational sector.) Therefore, this rule implements a recreational harvest limit of 2,262,929 lb (1,026 mt) and a commercial quota of 2,174,312 lb (986 mt).

2013 Recreational Management Measures

This rule implements the following measures that would apply in the Federal waters of the EEZ and to all federally permitted party/charter vessels with applicable summer flounder, scup, or black sea bass permits regardless of where they fish. For summer flounder, use of state-by-state conservation equivalency measures, which are the status quo measures; for scup, a 10-inch (25.4-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31; and, for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, and a 20-fish per person possession limit for open seasons of May 19 through October 14 and November 1 through December 31.

Federal permit holders are reminded that, as a condition of their Federal permit, they must abide by the Federal measures, even if fishing in state waters. In addition, in instances where the state-implemented measures are different than the Federal measures, federally permitted vessels must adhere to the more restrictive of the two measures. This will be applicable for both the 2013 scup and black sea bass recreational fisheries.

Summer Flounder Recreational Management Measures

This final rule implements the use of conservation equivalency to manage the 2013 summer flounder recreational fishery. NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), to permit the use of conservation equivalency to manage the recreational summer flounder fishery. Conservation equivalency allows each state to establish its own recreational management measures to achieve its state harvest limit partitioned from the coastwide recreational harvest limit by the Commission. The combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures, hence the term conservation equivalency. This means that minimum fish sizes, possession limits, and fishing seasons developed and adopted by the individual states from Massachusetts to North Carolina will replace the Federal waters measures for 2013.

The Commission notified the NMFS Northeast Regional Administrator by letter dated May 14, 2013, that the 2013 summer flounder recreational fishery management programs (i.e., minimum fish size, possession limit, and fishing seasons) implemented by the states from Massachusetts to North Carolina have been reviewed by the Commission's Technical Committee and approved by the Commission's Summer Flounder Management Board (SF Board). The correspondence indicates that the Commission-approved management programs are projected to restrict 2013 recreational summer flounder coastwide landings consistent with the state-specific requirements established by the Technical Committee and SF Board through the Commission process.

Based on the recommendation of the Commission, the NMFS Northeast Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the individual states for 2013 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively. According to § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended to recognize state-implemented measures as conservation equivalent of the coastwide recreational management measures for 2013. For clarity, the 2013 summer flounder management measures adopted by the individual states vary according to the state of landing, as specified in Table 1.

TABLE 2—2013 COMMISSION APPROVED STATE-BY-STATE CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Size (inches)	Minimum Size (cm)	Possession Limit	Open Season
Massachusetts	16	40.6	5 fish	May 22–September 30.
Rhode Island	18	45.7	8 fish	May 1–December 31.
Connecticut	17.5	44.5	5 fish	May 15–October 31.
New York	19	48.3	4 fish	May 1–September 29.
New Jersey	17.5	44.5	5 fish	May 18–September 16.

TABLE 2—2013 COMMISSION APPROVED STATE-BY-STATE CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER—Continued

State	Minimum Size (inches)	Minimum Size (cm)	Possession Limit	Open Season
Delaware	17	43.2	4 fish	All Year.
Maryland	16	40.6	4 fish	March 28–December 31.
PRFC	16	40.6	4 fish	All year.
Virginia	16	40.6	4 fish	All year.
North Carolina	15	38.1	6 fish	All Year.

Note: At 42 designated shore sites in CT, anglers may keep 5 fish at 16.0 inches (40.6 cm), May 15–October 31.

Scup Recreational Management Measures

This final rule implements the Council and Commission's recommended scup recreational management measures for 2013 in Federal waters. The 2013 scup recreational harvest limit is 7.55 million lb (3,425 mt), as published in final rule (December 31, 2012; 77 FR 76942). Estimated 2012 scup recreational landings are 4.06 million lb (1,842 mt), well below the 2013 recreational harvest limit; therefore, no reduction in landings is needed. The measures for the 2013 scup recreational fishery are for a 10-inch (25.4-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31.

Black Sea Bass Recreational Management Measures

This final rule implements the Council's recommended recreational management measures to reduce landings for black sea bass. The 2013 black sea bass recreational harvest limit is 2.26 million lb (1,026 mt). The 2012 recreational harvest limit was 1.32 million lb (599 mt), and the projected 2012 recreational landings were 2.99 million lb (1,356 mt). The projected 2012 landings are above the 2012 recreational harvest limit and both the previously established and the new recreational harvest limit for 2013. The Council and the Commission, therefore, needed to establish management measures to reduce landings in 2013 to a level below the 2013 recreational harvest limit. The majority of the recreational black sea bass fishery occurs in state waters. As such, the Commission agreed to make more significant changes to the state-waters measures to ensure the 2013 recreational harvest limit is not exceeded. Specifically, at the December 2012 meeting, the available data indicated that the Commission needed to reduce landings by 32 percent. However, data corrections and updates to the average weight per fish have resulted in the Commission needing to reduce landings by 24 percent as compared to 2012. In a letter dated May 16, 2013, the Commission has indicated that there was a reasonable likelihood that the state measures, including the proposed measures for Connecticut, would constrain recreational landings to the recreational harvest limit.

In light of the Commission's changes to the state-water measures, this final rule implements a 12.5-inch (31.8-cm) minimum fish size and 20-fish possession limit for open seasons of May 19—October 14 and November 1–December 31.

Comments and Responses

NMFS received one comment regarding the proposed recreational management measures and increase to the black sea bass specifications. The commenter stated that there was no factual reason for an increase in the catch limits and that the catch limits for all three species should be reduced by 25 percent to prevent extinction. NMFS disagrees with these statements. The catch limits that were established for summer flounder and scup in the specifications final rule (December 31, 2012; 77 FR 76942) and the increase to the black sea bass specifications established in this rule are based on the best available scientific information and on recommendations of the Council's SSC. None of these species is overfished or experiencing overfishing, and, therefore, not in danger of extinction.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that this final rule implementing the 2013 summer flounder, scup, and black sea bass recreational management measures and 2013 and 2014 black sea bass specifications is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Administrative Procedure Act

The Assistant Administrator for Fisheries, NOAA, has determined that there is good cause to waive the requirement for a 30-day delay in effectiveness provision of the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d)(3). NMFS has determined that a delay in this rule's effectiveness would be contrary to the public interest because it would undermine the intent of the rule, which is to promote the optimal utilization and conservation of the summer flounder, scup, and black sea bass resources. This action increases the trip limit for the recreational scup fishery in Federal waters and allows federally permitted charter/party vessels to be subject to the new, liberalized summer flounder measures in their respective states, without resulting in overfishing. Because some states' summer flounder fisheries are already open or will open during the 30-day period, federally permitted charter/party vessels would be restricted to the existing summer flounder coastwide regulations (18-inch (45.7-cm) minimum size and a 2-fish per person possession limit) until the Federal regulations are effective. This would unnecessarily disadvantage the federally permitted vessels, which would be subject to the more restrictive measures while state-licensed vessels could be engaged in fishing activities under this year's management measures. In addition, this rule increases the possession limit for scup, expanding fishing opportunities for fishermen that would otherwise be constrained under the current measures, without resulting in overfishing. If the effectiveness of this final rule were delayed for 30 days, the fishery would likely forego some amount of landings and revenues during the delay period. While these restrictions would be alleviated after this rule becomes effective, fishermen may be not able to recoup the lost economic opportunity of foregone trips that would result from delaying the effectiveness of this action.

For these reasons, the 30-day delay is waived and this rule will become

effective on the date of filing in the **Federal Register**.

Final Regulatory Flexibility Analysis

This final rule includes is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Copies of the EA/RIR/IRFA and SEA are available from the Council and NMFS (see **ADDRESSES**).

Statement of Objective and Need

A description of the reasons why the 2013 recreational management measures for summer flounder, scup, and black sea bass are being implemented, and the objectives of and legal basis for this final rule implementing both actions are explained in the preambles to the proposed rule and this final rule, and are not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

One comment was received on the proposed rule; however, it did not address the IRFA or economic analysis and did not result in any changes to the rule.

Description and Estimate of Number of Small Entities to Which This Rule Will Apply

The recreational management measures could affect any of the 852 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2012. However, only 355 vessels reported active participation in the 2012 recreational summer flounder, scup, and/or black sea bass fisheries, based on Vessel Trip Reports where the amount of kept summer flounder, scup, or black sea bass is greater than zero on a reported charter/party trip. The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than $4 million in annual sales, while the size standard for charter/party operators (part of NAICS code 487210) is $7 million in sales. Because any vessel at any time may be issued an open access charter/party summer flounder, scup, and/or black sea bass permit, it is difficult to determine how many vessels or owners will participate in this fishery in a given year. Although some firms own more than one vessel, available data make it difficult to reliably identify ownership control over more than one vessel. Thus, all of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for charter/party fishing businesses ($7.0 million in annual gross sales). Therefore, there are no disproportionate effects on small versus large entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken To Minimize Economic Impact on Small Entities

In seeking to minimize the impact of recreational management measures (minimum fish size, possession limit, and fishing season) on small entities (i.e., Federal party/charter permit holders), NMFS is constrained to implementing measures that meet the conservation objectives of the FMP and Magnuson-Stevens Act. Management measures must provide sufficient constraints on recreational landings, such that the established recreational harvest limits have a low likelihood of being exceeded, which might lead to overfishing the stock. This rule maintains the status quo recreational management measures for summer flounder, implements less restrictive management measures for scup, and slightly more restrictive measures for black sea bass in Federal waters.

Summer flounder alternatives. The alternatives examined by the Council and forwarded for consideration by NMFS consisted of the non-preferred alternative of coastwide measures (an 18-inch (45.7-cm) minimum fish size, a 4-fish per person possession limit, and open season from May 1 through September 30), and the preferred alternative of state-by-state conservation equivalency (see Table 2 for measures) with a precautionary default backstop (status quo). These were alternatives 1 and 2, respectively, in the Council's SEA/RIR/IRFA. These two alternatives were determined by the Council to provide a high probability of constraining recreational landings to levels at or below the 2013 recreational harvest limit. Therefore, either alternative recreational management system could be considered for implementation by NMFS, as the critical metric of satisfying the regulatory and statutory requirements would likely be met by either.

Next, NMFS considered the recommendation of both the Council and Commission. Both groups recommended implementation of state-by-state conservation equivalency, with a precautionary default backstop. The recommendations of both groups were not unanimous: Some Council and Commission members objected to the use of conservation equivalency, stating a preference for coastwide measures.

For NMFS to disapprove the Council's recommendation for conservation equivalency and substitute coastwide management measures, NMFS must reasonably demonstrate that the recommended measures are either inconsistent with applicable law or that the conservation objectives of the FMP will not be achieved by implementing conservation equivalency. NMFS does not find the Council and Commission's recommendation to be inconsistent with the implementing regulations of the FMP at § 648.100 or the Magnuson-Stevens Act, including the 10 National Standards.

The additional metric for consideration by NMFS, applicable to the FRFA, is examination of the economic impacts of the alternatives on small entities consistent with the stated objectives of applicable statutes. As previously stated, both coastwide measures (alternative 1) and conservation equivalency (alternative 2) are projected to achieve the conservation objectives for the 2013 summer flounder recreational fishery. However, the economic impacts of the two alternatives are not projected to be equal in the Council's analyses: The economic impacts on small entities under the coastwide measures management system would vary in comparison to the conservation equivalency system, dependent on the specific state wherein the small entities operate.

Quantitative analyses of the economic impacts associated with conservation equivalency measures are not available. This is because the development of the individual state measures occurs concurrent to the NMFS rulemaking process to ensure timely implementation of final measures for the 2013 recreational fishery; thus, the specific measures implemented by states are not available for economic impact analyses. Instead, qualitative methods were utilized by the Council to assess the relative impact of conservation equivalency (alternative 2) to coastwide measures (alternative 1). The Council analysis concluded, and

NMFS agrees, that conservation equivalency is expected to minimize impacts on small entities because individual states can develop specific summer flounder management measures that allow the fishery to operate during each state's critical fishing periods while still achieving conservation goals.

NMFS is implementing the Council and Commission's recommended state-by-state conservation equivalency measures because: (1) NMFS finds no compelling reason to disapprove the Council and Commission's recommended 2013 management system, as the management measures contained in conservation equivalency are projected to provide the necessary restriction on recreational landings to prevent the recreational harvest limit from being exceeded; and (2) the net economic impact to small entities on a coastwide basis are expected to be mitigated, to the extent practicable, for a much larger percentage of small entities.

Scup alternatives. NMFS is implementing the Council's preferred measures as the Federal water measures for the 2013 fishing year: A 10-inch (25.4-cm) minimum fish size; a 30-fish per person possession limit; and year-round open season. Similar to the summer flounder discussion, this suite of scup measures (alternative 2) provides the greatest economic opportunity for small entities from the alternatives available by providing the maximum fishing opportunity in Federal waters that also meets the requirements of the Magnuson-Stevens Act, the FMP, and achieves the conservation objectives for 2013. Alternative 1 for a 10.5-inch (26.7-cm) minimum fish size, 20-fish per person possession limit, and year-round open season contained measures that had higher impacts on small entities fishing in Federal waters, as it contains more restrictive measures than would be necessary to satisfy the management objectives, and thus this alternative was not implemented.

Black sea bass alternatives. As previously stated in the preamble, individual states have developed and implemented measures for use in state waters. This rule implements the Council's preferred measures (Alternative 2 in the Council's SEA/RIR/IRFA): A 12.5-inch (31.8-cm) minimum fish size and a 22-fish possession limit for the May 19–October 14 and November 1–December 31 fishing seasons. This alternative provides the greatest associated economic opportunities to small entities of the measures considered for Federal waters that also meets the statutory and regulatory requirements for the 2013 fishery. Alternative 1 (a 12.5-inch (31.8-cm) minimum fish size, a 25-fish per person possession limit, and open season of May 19 through October 14 and November 1 through December 31; and a 12.5-inch (31.8-cm) minimum fish size, a 15-fish per person possession limit, and an open season of January 1-February 28), does not satisfy the management objectives of the FMP, as a reduction in landings as compared to 2012 is necessary, and thus this alternative was not implemented.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the small entity compliance guide are available from NMFS (see **ADDRESSES**) and at the following Web site: *http://www.nero.noaa.gov.*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 17, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.104, paragraph (b) is revised to read as follows:

§ 648.104 Summer flounder minimum fish sizes.

* * * * *

(b) *Party/charter permitted vessels and recreational fishery participants.* Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 18 inches (45.7 cm) TL for all vessels that do not qualify for a moratorium permit under § 648.4(a)(3), and charter boats holding a moratorium permit if fishing with more than three crew members, or party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members.

* * * * *

■ 3. In § 648.106, paragraph (a) is revised to read as follows:

§ 648.106 Summer flounder possession restrictions.

(a) *Party/charter and recreational possession limits.* Unless otherwise specified pursuant to § 648.107, no person shall possess more than four summer flounder in, or harvested from, the EEZ, unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a summer flounder moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.102.

* * * * *

■ 4. Section 648.107 is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2013 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional

Administrator to be the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season—May 1 through September 30; minimum size—20.0 inches (50.8 cm); and possession limit—two fish.

■ 5. In § 648.126, paragraph (b) is revised to read as follows:

§ 648.126 Scup minimum fish sizes.

* * * * *

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum size for scup is 10 inches (25.4 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

* * * * *

■ 6. Section 648.127 is revised to read as follows:

§ 648.127 Scup recreational fishing season.

Fishermen and vessels that are not eligible for a moratorium permit under § 648.4(a)(6), may possess scup year-round, subject to the possession limit specified in § 648.128(a). The recreational fishing season may be adjusted pursuant to the procedures in § 648.122.

■ 7. In § 648.128, paragraph (a) is revised to read as follows:

§ 648.128 Scup possession restrictions.

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 30 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.122.

* * * * *

■ 8. In § 648.145, paragraph (a) is revised to read as follows:

§ 648.145 Black sea bass possession limit.

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 20 black sea bass in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 20 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142.

* * * * *

■ 9. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 19 through October 14, and November 1 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

[FR Doc. 2013–14919 Filed 6–20–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 120
Friday, June 21, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319, 322, and 360

[Docket No. APHIS–2011–0085]

RIN 0579–AD76

Consolidation of Permit Procedures; Denial and Revocation of Permits

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to consolidate the regulations concerning the issuance of permits for the importation and interstate movement of a wide variety of regulated plants, plant products, and other articles. We would also make corresponding changes to the regulations concerning permits for the importation and interstate movement of noxious weeds and the importation of honeybees and other beekeeping articles. We are also proposing to include new provisions in our regulations for the denial of a permit and the revocation of a permit once issued. These changes would make our permit procedures more transparent and easier to use, allow us to evaluate a permit application more quickly and thoroughly, and help us hold permittees accountable for complying with permit conditions.

DATES: We will consider all comments that we receive on or before August 20, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0085-0001*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0085, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0085* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Compliance and Coordination, RPM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION:

Background

The Plant Protection Act, as amended, (PPA, 7 U.S.C. 7701 *et seq.*) states that it is the responsibility of the Secretary of Agriculture to facilitate exports, imports, and interstate commerce of agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce the risk of dissemination of plant pests or noxious weeds that could constitute a threat to crops and other plants or plant products and burden interstate or foreign commerce. The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, noxious weed, or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States or the dissemination of a plant pest or noxious weed within the United States.

To implement these prohibitions and restrictions, the PPA further provides that the Secretary may issue regulations, including those that require that a permit be obtained for plants, plant products, noxious weeds, or other regulated articles prior to their importation or movement in interstate commerce. The Secretary has delegated the authority provided by the PPA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations issued under the authority of the PPA are administered and enforced by APHIS' Plant Protection and Quarantine program (PPQ).

Requiring a written permit for the importation or interstate movement of plants, plant products, noxious weeds, or other regulated articles reduces the risk of the introduction or dissemination of a plant pest or noxious weed in the United States in several ways.

A permit informs applicants of the requirements and conditions for importation or interstate movement of regulated articles that we have determined are necessary to mitigate the risk of introducing or disseminating a plant pest or noxious weed. Requiring a written permit also allows APHIS to hold permittees accountable for complying with permit conditions and to specify the plant products allowed into the United States or allowed to move interstate. A permit prescribes the binding conditions that the applicant for a permit, and the permittee, must adhere to under the permit and the pertinent regulations. The information contained in an application for a permit must also provide for clear and continuous accountability for the importation or movement.

The regulations contained in 7 CFR part 319, Foreign Quarantine Notices, prohibit or restrict the importation into the United States of certain plants, roots, bulbs, seeds, or other plant products to prevent plant pests and noxious weeds from being introduced and spread within the United States. The restricted or prohibited plant products include plants for planting, cut flowers, fruits and vegetables, foreign cotton and covers, sugarcane, citrus, corn and related plants, rice, wheat, logs and other unmanufactured wood articles, packing materials, and coffee.

The regulations in 7 CFR part 322 prohibit or restrict the importation of honeybees and honeybee semen in order to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species.

The regulations in 7 CFR part 360 restrict the importation and interstate movement of those plants that are designated as noxious weeds.

Each of the parts listed above provides the requirements for permits that are necessary to comply with the regulations of that part. Those parts are not, however, always consistent in their requirements for obtaining a permit, the

basis upon which we may deny or revoke a permit, or how such a denial or revocation may be appealed.

These inconsistencies have resulted in confusion for applicants for a permit concerning our permit procedures and difficulties for APHIS in providing the appropriate guidance concerning the regulations. Additionally, the lack of consistency in our permit procedures has resulted in difficulties with the enforcement of our regulations. There have been instances of applicants for a permit providing false or fraudulent information. In other instances, permittees have not complied with requirements for using a permit. Permittees must comply with all requirements in the applicable regulations and with all permit conditions contained in the permit, and with applicable administrative instructions. Administrative instructions are published guidance stating how to comply with the regulations with regard to a particular commodity or situation, and are incorporated into the regulations if they are of general applicability. See, for example, 7 CFR 319.24a, ''Administrative instructions relating to entry of corn into Guam.''

In order to reduce the risk of the introduction or dissemination of a plant pest or noxious weed into or within the United States, we intend to strengthen and harmonize the requirements for a permit for restricted plants, plant products, and other articles regulated under the PPA in parts 319, 322, and 360.

Specifically, we are proposing to establish a new subpart in part 319 entitled ''Permits: Application, Issuance, Denial, and Revocation,'' which would include §§ 319.7 through 319.7–5 and would serve as generally applicable requirements in part 319 for obtaining a permit to import or move interstate plants or plant products. The requirements contained in the new subpart would provide applicants for permits with more detailed information regarding the process for applying for a permit and indicate the type of information we would require in a permit application. We would also make consistent and clear the provisions for how we will approve, deny, or revoke a permit. We would also apply the new provisions, as appropriate, to parts 322 and 360.

We anticipate that these changes to the regulations will make our permit procedures more transparent and easier to use, allow us to evaluate a permit application more quickly and thoroughly, and provide greater control and accountability for the permit process.

These proposed changes, and the provisions of the proposed new subpart, are discussed in further detail directly below.

Definitions

Section 319.7 would define terms we propose to use in the permit regulations. Some of the terms and definitions we are proposing for § 319.7 are derived from the definitions of these terms in the PPA. We are proposing to use these definitions in order to ensure that the regulations are consistent with the PPA. Those definitions are listed below:

- *Article.* Any material or tangible objects that could harbor plant pests or noxious weeds.
- *Enter, entry.* To move into, or the act of movement into, the commerce of the United States.
- *Import, importation.* To move into, or the act of movement into, the territorial limits of the United States.
- *Means of conveyance.* Any personal property used for or intended for use for the movement of any other personal property.
- *Move.* To carry, enter, import, mail, ship, or transport; to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment; or to allow any of the activities described in this definition.
- *Permit.* A written authorization, including by electronic methods, to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Administrator.
- *Person.* Any individual, partnership, corporation, association, joint venture, or other legal entity.
- *Plant.* Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.
- *Plant pest.* Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.
- *Plant product.* Any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of *plant,* or any manufactured or processed plant or plant part.
- *State.* Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.
- *United States.* All of the States.

Other definitions we are proposing for § 319.7 are based on definitions in other parts of our regulations in 7 CFR chapter III. These definitions are listed below:

- *Administrative instructions.* Published documents related to the enforcement of 7 CFR part 319 and issued under authority thereof by the Administrator.
- *Administrator.* The Administrator of the Animal and Plant Health Inspection Service, or any employee of the United States Department of Agriculture delegated to act in his or her stead.
- *Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.
- *Consignment.* A quantity of plants, plant products, and/or other articles being moved from one country to another authorized, when required, by a single permit. A consignment may be composed of one or more commodities or lots.
- *Country of origin.* The country where the plants, or plants from which the plant products are derived or were grown or where the non-plant articles were produced.
- *Inspector.* Any individual authorized by the Administrator of the Animal and Plant Health Inspection Service or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in part 319.
- *Lot.* All the regulated articles on a single means of conveyance that are derived from the same species of plant or are the same type of non-plant article and were subjected to the same treatments prior to importation, and that are consigned to the same person.
- *Port of entry.* A port at which a specified shipment or means of conveyance is accepted for entry, or admitted without entry into the United States for transit purposes.
- *PPQ.* The Plant Protection and Quarantine program, Animal and Plant Health Inspection Service.
- *Regulated article.* Any material or tangible object regulated by 7 CFR part 319 for entry into the United States or interstate movement.

• *Soil.* The unconsolidated material from the earth's surface that consists of rock and mineral particles mixed with organic material and that supports or is capable of supporting biotic communities.

• *Treatment.* A procedure approved by the Administrator for neutralizing infestations or infections of plant pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

Other definitions we are proposing for § 319.7 are new to the regulations or are slightly different or expanded from current definitions. These definitions are discussed below.

To provide a clear framework for distinguishing the stages involved in issuing permits for the importation and interstate movement of regulated articles we would define two terms. These terms are *applicant* and *permittee.*

We would define an *applicant* as a person at least 18 years of age who, on behalf of him or herself or another person, submits an application for a permit to import into the United States or move interstate a regulated article in accordance with part 319. A *permittee* would be defined as a person who on behalf of him or herself or another person, is legally the importer of an article, meets the requirements of § 319.7–2(f), and is responsible for compliance with the conditions for the importation that is the subject of a permit issued in accordance with part 319. It is important that the permittee be the importer of the article because the act of importing an article contrary to the regulations is specifically identified as a violation of law.

In § 319.7–1, we would make consistent the information required in an application for a permit for the articles regulated by part 319. We would require applicants to state the intended use of the regulated article and we would define *intended use* as the purpose for the importation of the regulated article, to include, but not be limited to, consumption, propagation, or research purposes. We would also require that the proposed port of first arrival be provided, and we would define *port of first arrival* as the area, such as a seaport, airport, or land border, where a person or means of conveyance first arrives in the United States, and where inspection of regulated articles may be carried out by inspectors.

We would clarify throughout part 319 that obtaining a permit does not guarantee permission to import a consignment of regulated articles, but that an inspector at the port may withhold permission pending a determination regarding whether remedial measures are necessary pursuant to the PPA with respect to the regulated article. We would also define *oral authorization* as verbal permission to import that may be granted by an inspector at the port of entry.

Applying for a Permit

The regulations in proposed § 319.7–1 would set out the specific information a permit application must contain, how we would handle a shipment that arrives at a port before the permittee has received the permit, and how we would provide for oral authorizations at the port of entry.

Paragraph (a) would provide that a person who wishes to import regulated articles into the United States must apply for a permit, unless the regulated articles are not subject to a requirement that a permit be issued prior to a consignment's arrival. This standard would continue to allow importation of articles that the regulations currently allow to enter without being accompanied by a permit (e.g., most lots of 12 or fewer plants for planting under § 319.37–3, certain log and lumber articles authorized entry under the general permit in § 319.40–3, or fruits and vegetables from Canada entering under the general permit in § 319.56–10).

Proposed paragraph (a) would also set out the requirements for an applicant to obtain a permit. Under this paragraph, an applicant for a permit to import regulated articles into the United States in accordance with part 319 would have to be capable of acting in the capacity of the permittee, or must designate a permittee for the permit, should it be issued. The duties of a permittee are discussed later in this document.

Section 424(c) of the PPA (7 U.S.C. 7734(c)) provides that, for the purposes of the PPA, the act, omission, or failure of any officer, agent, or person acting for or employed by another person within the scope of his or her employment or office shall be deemed also to be the act, omission, or failure of the other person. We would make this responsibility clear by building into the definition of *applicant* that the application may be for a permit on behalf of him or herself or another person to act as permittee. We would also require that the applicant be at least 18 years of age.

Paragraph (b) would provide applicants with information regarding how to obtain and submit an application for a permit. It would state that permit applications must be submitted by the applicant in writing or electronically through one of the means listed at *http://www.aphis.usda.gov/plant_health/permits/index.shtml* in advance of the action(s) proposed on the permit application. That Web page would specify that persons may apply for a permit via the Internet through APHIS' secure site for online permit applications, and would provide a link to that portal. It would also provide that a person may submit a permit application by faxing the application to APHIS, and would specify the appropriate fax number. Additionally, it would state that an application may be obtained by calling PPQ at the number provided. Finally, it would provide that a person may submit a permit application by mailing it to APHIS at the address provided.

Paragraph (c) would list the information that every permit application must contain, and paragraph (d) would list other information APHIS may require from some applicants depending on the specific nature of the articles in their shipments. Currently, in the various subparts of part 319, permit applications require certain information in all cases (nature and origin of the shipment, contact information for the applicant, etc.), but there is substantial variation in the description of requirements. Much of the variation is not significant but simply results from the fact that the various subparts were written at different times over a span of 50 years. In a few cases, the variation results from a need to have additional information to evaluate or control the risks associated with specific types of imports or pests. Table 1 below summarizes how the current subparts of part 319 address the information required for permit applications.

TABLE 1—COMPARISON OF INFORMATION REQUIRED FOR PERMIT APPLICATIONS

§ 319.8 *et seq.* Subpart—foreign cotton and covers	§ 319.24 *et seq.* Subpart—corn diseases	§ 319.37 *et seq.* Subpart—plants for planting	§ 319.40 *et seq.* Subpart—logs, lumber, and other wood articles	§ 319.41 *et seq.* Subpart—Indian corn or maize, broomcorn, and related plants	§ 319.55 *et seq.* Subpart—rice	§ 319.56 *et seq.* Subpart—fruits and vegetables	§ 319.75 *et seq.* Subpart—Khapra beetle
• Name and address of the importer • Country from which such material is to be imported • Kind of cotton or covers it is desired to import • Approximate quantity • Proposed port of entry	• Name and address of the exporter • Country and locality where grown • Port of departure • Proposed port of entry • Name and address of the importer or of the broker in the United States to whom the permit should be sent	• Name, address, and telephone number of the importer • Approximate quantity and kinds (botanical designations) of articles intended to be imported • Country(ies) or locality(ies) where grown • Intended United States port of entry • Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage • Expected date of arrival	• Name and address of the applicant and, if the applicant's address is not within the United States, of an agent in the United States whom the applicant names for acceptance of service of process • Statement certifying the applicant as the importer of record • Specific type of regulated article to be imported, including the genus and species name of the tree from which the regulated article was derived • Country, and locality if known, where the tree from which the regulated article was derived was harvested • Quantity of the regulated article to be imported • Description of any processing, treatment or handling to be performed prior to importation, including the location where any processing or treatment was or will be performed and the names and dosage of any chemicals employed in treatments • Description of any processing, treatment, or handling intended to be performed following importation, including the location where any processing or treatment will be performed and the names and dosage of any chemicals employed in treatments • Whether the regulated article will or will not be imported in a sealed container or in a hold • Means of conveyance to be used • Intended port of first arrival in the United, and any subsequent ports in the United States at which regulated articles may be unloaded • Destination and general intended use of the regulated article	• Name and address of the exporter • Country and locality where grown • Port of arrival • Name and address of the importer in the United States to whom the permit should be sent	• Name and address of the importer in the United States to whom the permit should be sent, if other than the applicant • Locality where the desired material has been grown • Port of arrival	• Name and address of the importer in the United States • Country or locality of origin of the fruits or vegetables • Anticipated port of first arrival • Identity (scientific name preferred) and quantity of the fruit or vegetable	• Name, address, and telephone number of the importer. • Approximate quantity and kinds of articles intended to be imported. • Country or locality of origin. • Country(ies) or locality(ies) where it is intended to be offloaded prior to arrival in the United States. • Intended U.S. port of entry. • Means of transportation. • Expected date of arrival.

Table 2 below describes the unified permit application information requirements that we are proposing to replace the varied requirements in table 1. It includes both specific information we would require for all permit applications and additional information that we may sometimes require based on the nature of the article imported pursuant to the requested permit.

TABLE 2—PROPOSED PERMIT APPLICATION INFORMATION REQUIREMENTS

Information for all permits (proposed § 319.7–1(c))	Additional information that may be required (proposed § 319.7–1(d))
• Legal name, address, and contact information of the applicant and of the permittee, if different from the applicant. • Specific type of regulated article (common and scientific names, if applicable). • Country of origin. • Intended use of the regulated article. • Intended port of first arrival. • A description of any processing, treatment, or handling of the regulated article to be performed prior to or following importation, including the location where any processing or treatment was or will be performed and the names and dosage of any chemical employed in treatments of the regulated article.	• Means of conveyance. • Quantity of the regulated article. • Estimated date of arrival. • Name, address, and contact information of any broker or subsequent custodian of the regulated article. • Exporting country from which the article is to be moved, when not the country of origin. • Any other information determined to be necessary by the Administrator to inform the decision to issue the permit.

The information we are proposing to require for all applications would provide us with the means to contact and track applicants and evaluate, for most cases, the risk posed by the proposed importation. This evaluation takes into account the type of article (to consider what pests it may host) and the country of origin (to consider what pests are found there). The intended use of the article is also often relevant, for example, if it is intended for near-term consumption or processing destructive to pests. The intended port of arrival is important information both for workload planning and to consider whether any pests of concern could thrive or spread in that port's climate. Finally, the description of any processing, treatment, or handling of the article allows us to consider whether pests would be destroyed by such processes.

The second column of table 2 lists information that APHIS may require before issuing specific permits to make a fully informed decision concerning the risks of disseminating plant pests or noxious weeds for a particular importation. This represents information that APHIS may sometimes require either to properly assess the risk associated with the proposed importation or information relevant to operational planning. For example, the identity of countries that the consignment is shipped through may be relevant to risk in cases where certain types of consignments can easily become infested with pests not present in the country of origin. In other cases the quantity of a regulated article is relevant when gauging whether treatment facilities at the port of arrival are of adequate size, and the estimated date of arrival is relevant when port facilities are scheduled for renovation or particularly busy periods. This type of additional information would be obtained from the applicant either through automatic prompts in the ePermits system triggered by applicant responses, or in cases where ePermits is not used, by APHIS contacting the applicant after receiving the application.

Importantly, we propose to indicate in paragraph (d) of § 319.7–1 that APHIS may require from an applicant any other information determined necessary by the Administrator to inform the decision to issue the permit or to safely manage its entry at the port. Such information may sometimes be required from an applicant even after issuance of a permit, for example, when additional transportation requirements suddenly become necessary. These are situations where clearance of a consignment at the scheduled port of first arrival is impossible and the consignment is directed to move from the arrival port environs to another location for final disposition. In such cases, APHIS may need more information to assess the pest risk and decide whether safeguards are adequate and to contact the destination port about safeguards there while the off-loaded consignment is awaiting transshipment.

Paragraph (e) of § 319.7–1 would provide that an application for a permit to import regulated articles into the United States must be submitted at least 30 days prior to arrival of the article at the port of entry; however, if, through no fault of the permittee, a consignment should arrive at a U.S. port before a permit is received, we would provide that the consignment may be held, under suitable safeguards prescribed by the inspector, in custody at the risk and expense of the permittee pending issuance of a permit or authorization from APHIS for entry.

We would also provide for oral authorizations in paragraph (e). As discussed above, an oral authorization would be defined as verbal permission to import that may be granted by an inspector at the port of entry. We are proposing that an oral authorization could be granted by an inspector at the port of entry for a shipment or a consignment, provided all applicable entry requirements are met, proof of application for a written permit is provided to the inspector, and PPQ verifies that the application for a written permit has been received and that PPQ intends to issue the permit.

The oral authorization procedure would replace current provisions in part 319 of the regulations for oral permits. Some sections of part 319 allow oral permits to be issued at the sole discretion of an inspector, without requiring prior submission of a permit application. While APHIS has operational practices in effect to track when oral permits are authorized and what they cover, there is no corresponding requirement for importers to keep track of when they receive oral permission and what it covers, which complicates compliance audits and enforcement actions. Due to these factors, we have determined that oral permits do not provide a reliable means of verifying that a permittee was aware of permitting conditions at the time he or she was issued the permit. Because the proposed oral authorization procedure includes a requirement that an application for a written permit must be underway before an oral authorization is issued, it would provide a link between oral authorizations and documentation. The

written application associated with the oral authorization also includes acknowledgment and acceptance of permit conditions that may be assigned by APHIS, which also strengthens the oral authorization system compared to the old oral permits system for articles subject to part 319.

Issuance of Permits and Labels

Section 319.7–2 would contain the provisions for the issuance of permits and labels. In paragraph (a) of this section, we would provide that, when we receive an application for a permit, we will issue a permit that prescribes the applicable conditions for importation if, after review of the application, the Administrator determines that the regulated article is eligible to be imported into the United States under those specific conditions. A copy of the permit would be provided to the permittee. The permit would only be valid for the time period indicated on the permit. In addition to listing the applicable conditions of entry, the permit would also specify the port of entry and, when needed, allowed ports of first arrival. (This may be needed, for example, for air parcel post deliveries that arrive in the United States and then move by surface transportation, usually by a bonded carrier, to another destination for entry. Such shipments must be cleared at a port of first arrival that has a U.S. Department of Agriculture plant inspection station.)

Paragraph (b) would require that an applicant for a permit for the importation of regulated articles into the United States designate the person who will be named as the permittee upon the permit's issuance. As discussed above, the applicant and the permittee may be the same person.

As noted above, the PPA provides that the act, omission, or failure of any officer, agent or person acting for or employed by another person within the scope of his or her employment or office shall be deemed also to be the act, omission, or failure of the other person. We would include this standard in paragraph (c) to make it clear that responsibility for violating a permit condition applies to the permittee and is not limited to just the person who commits the violation, if that person is acting as an agent for the applicant or permittee.

Paragraph (d) would provide that failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of relevant permits (i.e., the permit for which a condition was violated, or any valid permit that the permittee altered to extend its scope), denial of any future applications for permits, and other remedial actions ordered by an inspector and civil or criminal penalties for the permittee, as authorized by the PPA.

Paragraph (e) would provide that the permittee remains responsible for the consignment regardless of any delegation to a subsequent custodian of the importation. Such subsequent custodians include entities such as brokers or transporters.

Paragraph (f) would include requirements for the permittee. These requirements are necessary because we must be able to clearly identify and when necessary contact the person legally responsible for the importation or movement that is the subject of the permit. If the permittee is an individual, he or she would be required, during any periods when articles are being imported or moved interstate under the permit, to maintain and be physically present during normal business hours at an address within the United States specified on the permit.

If the permittee is a corporation, institution, association or other legal entity, the legal entity would have to maintain an address or a business office in the United States with a designated individual for service of process.

Proposed paragraph (f) would also require that the permittee serve as the contact for the purpose of communications associated with the movement of the regulated article for the duration of the permit, and ensure compliance with the applicable regulatory requirements and permit conditions associated with the movement of the regulated article for the duration of the permit. The permittee would also be required to provide written or electronic acknowledgment and acceptance of permit conditions and acknowledge that failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of any future applications for permits, and other remedial actions under the PPA. We would require that the permittee comply with all conditions of the permit for the entirety of its prescribed duration. The permittee would also be required to inform the PPQ Permit Unit of a change in contact information for the permittee within 10 business days of such change.

Paragraph (g) would provide that the importation of regulated articles may only proceed, even if a permit is issued, if all applicable requirements of the permit or any other documents or instructions issued by APHIS are met. Such documents may include APHIS administrative instructions, compliance agreements, and preclearance documents. While APHIS tries to ensure that permittees are fully informed at the time of permit issuance as to exactly what APHIS requirements will apply to their shipments when they arrive, sometimes this is not possible. There are various reasons for this, ranging from the minor (a clerical or data entry error in the permit) to the substantial (new data demonstrating existence of a pest in an area or on a commodity where it was not previously known). To directly inform permittees, each permit contains a statement that all requirements are subject to change at any time during the duration of the permit, and refers permittees to PPQ Port Program Manuals at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/index.shtml* for current import requirements for commodities. When it is possible and there is time to do so, APHIS will amend a permit and inform the permittee before shipments arrive that will be subject to new or revised requirements. When there is not time to do this or a large number of permits are affected and they all cannot be amended quickly, the new requirements are also publicized using methods such as press releases and the PPQ Stakeholder Registry. Also, when new pest or other information makes it necessary to prohibit commodities that were previously allowed entry, a Federal Order [1] is usually issued and widely distributed by APHIS.

APHIS issues labels for consignments of some imported articles to expedite clearance of approved imports, e.g., we may issue labels to be applied to fruit packed under approved conditions at an approved packinghouse overseas. Paragraph (h) would add provisions for the labeling of regulated articles to be imported under a permit issued in accordance with part 319. It would state that labels with information about the shipment's nature, origin, movement

[1] A Federal Order is a document issued by APHIS, typically in response to an immediate need, when the Administrator of APHIS considers it necessary to take regulatory action to protect agriculture or prevent the entry and establishment into the United States of a pest or disease. Federal Orders are effective immediately under the regulatory authority provided by the Plant Protection Act, as amended, Section 412(a), 7 U.S.C. 7712(a). Federal Orders will remain in effect until they are revised by another Federal Order or by rulemaking, or are withdrawn.

conditions, or other matters relevant to the permit may be issued to the importer for the importation of regulated articles and will indicate that the importation is authorized under the conditions specified in the permit. The quantity of labels will be sufficient for the importer to affix one to the outer packaging of each parcel. If APHIS has required and issued labels for an importation by either regulations in part 319 or specific permit conditions, importations without the required labels will be refused entry into the United States.

Even if a permit has been issued for the importation of a regulated article, under the provisions of paragraph (i) the regulated article may be imported only if an inspector at the port of entry determines that, based on the findings of the inspection, no remedial measures pursuant to the PPA are necessary. Pursuant to the PPA, an inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, and other articles in accordance with sections 414, 421, and 434 of the PPA (7 U.S.C. 7714, 7731, and 7754).

Paragraph (j) of proposed § 319.7–2 would provide that a permit application may be withdrawn at the request of the applicant prior to the issuance of the permit. A permit could be canceled after issuance at the request of the permittee under proposed paragraph (k), and paragraph (l) would provide that a permit may be amended if the Administrator finds after issuance that the permit was incomplete or contained factual errors.

Denial of Permits

Section 319.7–3 would contain the regulations by which we could deny a permit to import regulated articles into the United States under this part.

The Administrator may deny an application for a permit under the provisions of proposed paragraph (a). A denial, including the reason for the denial, would be provided in writing, including by electronic methods, to the applicant as promptly as circumstances permit. We would provide that the denial of a permit may be appealed in accordance with § 319.7–5.

Paragraph (b) would contain the conditions under which the Administrator may deny a permit to import regulated articles. These conditions would include risks posed both by the applicant and by the article.

We propose to provide that a permit may be denied if APHIS determines that an applicant is not likely to abide by permit conditions. Factors that may lead to such a determination would include, but not be limited to, the following.

- The applicant, or another legal entity in which the applicant has a substantial interest, has not complied with any permit that was previously issued by APHIS;
- APHIS determines that issuing the permit would circumvent any order revoking or denying a permit under the Act;
- APHIS determines that the applicant has previously failed to comply with any APHIS regulation;
- The applicant has previously failed to comply with any Federal, State, or local law, regulation or instruction concerning plant health;
- The applicant has failed to comply with the laws or regulations of a national plant protection organization or equivalent body, as these pertain to plant health;
- The applicant has made false or fraudulent statements or provided false or fraudulent records to APHIS, or;
- The applicant has been convicted or has pled nolo contendere to any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity.

The above factors represent reasons APHIS might determine, based on past actions and their relevance to the application under consideration, that an applicant cannot be trusted to abide by permit conditions. Additionally, we could also deny a permit if the application for a permit contains information that is found to be materially false, fraudulent, or deceptive. A permit could also be denied for the regulated article for which the permit is sought if, in APHIS' opinion, the action under the permit would present an unacceptable risk of introducing or disseminating a plant, or if the importation is adverse to the conduct of an eradication, suppression, control, or regulatory program of APHIS, or to applicable import regulations or any administrative instructions. A permit could be denied if the government of the State or Territory into which the article would be imported objects to the proposed importation and provides specific, detailed information that there is a risk it will result in the dissemination of a plant pest or noxious weed into the State, and APHIS concurs.

Withdrawal, Cancellation, and Revocation of Permits

Section 319.7–4 would contain the regulations under which we may revoke a permit to import regulated articles into the United States that has already been issued under part 319. It would also contain procedures for applicants to withdraw their permit application, and for permittees to cancel their permits.

Paragraph (a) would provide that an applicant may withdraw a permit application before issuance of a permit by sending a written request to APHIS. APHIS would then provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

Paragraph (b) would provide that that if a permittee wishes to cancel a permit after its issuance, he or she must provide the request in writing to APHIS. APHIS would then provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

Paragraph (c) would provide that the Administrator may revoke any outstanding permit to import regulated articles into the United States, and that a revocation, including the reason for the revocation, would be provided in writing, including by electronic methods, to the permittee as promptly as circumstances permit. The revocation of a permit could be appealed in accordance with proposed § 319.7–5.

Paragraph (d) would contain the conditions under which the Administrator may revoke a permit to import a regulated article. Under this paragraph, the Administrator could revoke a permit to import a regulated article if information is received subsequent to the issuance of the permit that would constitute cause for the denial of an application under proposed § 319.7–3. A permit could also be revoked if the Administrator determines that the permittee has failed to maintain the safeguards or otherwise observe the conditions specified in the permit or in any applicable regulations or administrative instructions.

Sections 414, 421, and 434 of the PPA (7 U.S.C. 7714, 7731, and 7754) give the Secretary the authority to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, and other articles moving into or through the United States, in order to prevent the dissemination of a plant pest or noxious weed, without cost to the Federal Government and in the manner the Secretary considers appropriate and is the least drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

In light of this authority granted by the PPA, paragraph (e) would contain

the actions that must be taken if a permit is revoked. It would provide that, upon revocation of a permit, the permittee must, without cost to the Federal Government and in the manner the Administrator considers appropriate, surrender all regulated articles covered by the revoked permit and any other affected plant material to an inspector; destroy all regulated articles covered by the revoked permit and any other affected plant material under the supervision of an inspector; or remove all regulated articles covered by the revoked permit and any other affected plant material from the United States.

Appeal of Denial or Revocation

Proposed § 319.7–5 would set out the procedure for appealing a denial or revocation of a permit to import regulated articles into the United States. As discussed above regarding proposed § 319.7–4(a), all denials of an application for a permit, or revocations of an existing permit, will be provided in writing, including by electronic methods, as promptly as circumstances permit and will include the reasons for the denial or revocation.

Paragraph (b) would provide that any person whose application for a permit has been denied or whose permit has been revoked may appeal the decision in writing to the Administrator within 10 business days from the date the communication of notification of the denial or revocation of the permit was received. The appeal should state all facts and reasons upon which the person is relying to show that the denial or revocation was incorrect.

The Administrator would grant or deny the appeal in writing and will state in writing the reason for the decision.

Changes to Other Subparts in Part 319

As discussed above, we are proposing to establish the new subpart §§ 319.7 through 319.7–5 to contain and consolidate the generally applicable requirements in part 319 for obtaining a permit to import or move interstate plants or plant products.

Other subparts in part 319 currently contain varying requirements relating to permits. We are proposing to remove those requirements from the regulations and amend all the subparts with current requirements to refer to the subpart we are proposing to add. This would ensure that common requirements apply to permits for importation of any article whose importation is regulated under part 319.

In the paragraphs that follow, we discuss the changes we are proposing to the regulations contained in part 319 and cite the specific areas of the regulations we are proposing to change.

The foreign quarantine notices of 7 CFR part 319 to which we propose changes are:

Plants and plant products imported for experimental, therapeutic, or developmental purposes under § 319.8. This section contains requirements for controlled import permits (CIP) that may be used to import an article whose importation is prohibited under part 319, or to import an article under conditions that differ from those prescribed in the relevant regulations in part 319. This section was recently promulgated in a final rule in the **Federal Register** on May 2, 2013 (78 FR 25565–25572), and its provisions for denial and revocation of permits are substantially similar to those discussed in this rule above. We propose to revise the relevant paragraph (g) in § 319.6, *Denial and revocation of a CIP,* to refer to the provisions of the proposed new subpart.

Foreign cotton and covers regulated under §§ 319.8 through 319.8–26. In § 319.8–1, we would amend the definition of *permit* to refer to the provisions of the proposed new subpart. We would remove specific language from § 319.8–2(a) and (c) about the written or oral form of a permit application and the information it must contain and information regarding where a permit application may be submitted. This information, updated to be consistent with current APHIS procedures, would now be available in proposed § 319.7–1. We would also remove § 319.8–2(d), which describes what steps APHIS will take upon receipt of an application. This information, updated to be consistent with current APHIS procedures, would now be available in proposed § 319.7–2. We would also remove paragraph (g), which describes how certain shipments that inadvertently arrive at a port in advance of the issuance of a permit may be held under safeguards pending issuance of the permit. Proposed § 319.7–1(e) would replace this provision with updated language regarding safeguards at the port of entry and oral authorizations for entry. We would also add references in §§ 319.8–1 and 319.8–2 to §§ 319.7 through 319.7–5 to aid readers in locating the newly consolidated information on permits.

Indian corn or maize and related plants and their seeds regulated under §§ 319.24 through 319.24–5 (the corn diseases subpart) and §§ 319.41 through 319.46 (the Indian corn or maize, broomcorn, and related plants subpart). We would revise § 319.24–1, which discusses the application for a permit, to add references to the proposed new subpart, and remove §§ 319.24–2 and 319.24–4 as their provisions for the issuance of permits and the notification of arrival at the port would be covered in the new subpart. We would also remove language concerning the application for a permit in § 319.41–2 and instead refer to the proposed new subpart. In § 319.41–6, we would remove language concerning special mailing tags that are no longer used.

Citrus fruit and nursery stock regulated under § 319.28. We would remove paragraph (i), which deals with permit cancellation and appeals, and paragraph (j), which defines the term *inspector.* These provisions would be redundant if the proposed new subpart is adopted.

Plants for planting regulated under §§ 319.37 through 319.37–14. In § 319.37–3, we would add references to the new subpart that provides for permit procedures and remove language concerning permit applications and oral permits that is inconsistent with provisions of the proposed new subpart.

Logs, lumber, and other unmanufactured wood articles regulated under §§ 319.40–1 through 319.40–11. In § 319.40–4, we would remove information about permit applications and add references to the new subpart that provides for permit applications and other procedures.

Rice regulated under §§ 319.55 through 319.55–7. In § 319.55–2, which provides for the process of applying for a permit to import rice products, we would add references to the new subpart that provides for permit procedures and remove information about permit applications that is inconsistent with the provisions of the proposed new subpart. We would remove § 319.55–4 as it contains information about permit issuance, which is covered in the proposed new subpart. In § 319.55–7, which provides for the process of importing rice products by mail, we would remove information about mailing tags that is covered in the proposed new subpart and add the requirement that a permit must be obtained for the importation and all conditions of the permit must be met.

Fruits and vegetables regulated under §§ 319.56–1 through 319.56–58. In § 319.56–3, we would remove several paragraphs that contain information about permit applications and issuance, oral permits, and the amendment, withdrawal or denial of permits and the appeal of these actions. We would replace this information with a reference to the proposed new subpart,

which would contain information about all these topics.

Those articles restricted in order to prevent the entry of khapra beetle regulated under §§ 319.75 through 319.75–9. Throughout these sections, we would change the term ''restricted article'' to ''regulated article'' to be consistent with the rest of part 319 and new §§ 319.7 through 319.7–5. In § 319.75–3, we would remove several paragraphs that that contain information about permit applications and issuance, and the withdrawal of permits and the appeal of a withdrawal, adding in their place references to the new subpart that provides for permit procedures.

Changes to Other Parts

As discussed above, we are proposing to apply the new provisions, as appropriate, contained in the new subpart that provides for permit procedures in part 319 to parts 322 and 360. This would provide more consistency to our regulations concerning the process for applying for a permit, the type of information we would require in a permit application, and the provisions for approving, denying, or revoking a permit, and the process for appealing these actions.

Part 322—Bees, Beekeeping By-Products, and Beekeeping Equipment

The regulations in 7 CFR part 322 prohibit or restrict the importation of honeybees and honeybee semen in order to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species.

Section 322.13 regulates restricted organisms and states that they may be imported into the United States only by Federal, State, or university researchers. To this section we would add requirements that an importer must also be a person at least 18 years of age, and must be physically present during normal business hours at an address within the United States specified on the permit during any periods when articles are being imported or moved interstate under the permit. We would also remove language in § 322.14 that provides that an applicant for a permit must be a resident, or sponsored by a resident, of the United States, as it would conflict with the proposed change.

We would add to current § 322.15(c), which sets out conditions for denial of a permit, three of the conditions under which we may deny a permit that are discussed above under § 319.7–3. These provisions for the denial of a permit include:

- A permit may be denied to a person who has previously failed to comply with any APHIS regulation.
- A permit may be denied to a person who has previously failed to comply with any Federal, State, or local law, regulation, or instruction concerning the importation of prohibited or restricted foreign agricultural products may also be denied a permit.
- A permit may be denied if the application for a permit contains information that is found to be materially false, fraudulent, or deceptive.

We would also replace the provisions of paragraph (e) of § 322.15 for the appeal of a denial or cancellation of a permit with the new requirements proposed in § 319.7–5 and discussed above.

Part 360—Noxious Weed Regulations

The regulations in 7 CFR part 360 prohibit or restrict the importation and interstate movement of those plants that are designated as noxious weeds, as defined by the PPA.

Section 360.304 contains the conditions under which we may deny a permit to move a noxious weed. We would add two additional conditions for denial to this section that are similar to conditions for denial that we proposed to add in § 319.7–3.

We propose to provide that we may deny a permit if the application for a permit contains information that is found to be materially false, fraudulent, or deceptive. A permit may be denied to a person who has previously failed to comply with any APHIS regulation.

We believe that these changes to the regulations will harmonize our permit procedures and make our permit procedures clearer and easier to use.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

Entities that may be affected by the proposed rule are importers of lumber and plywood (North American Industry Classification System [NAICS] code 423310); importers of other miscellaneous durable goods, such as logs, timber and packing material (NAICS 423990); importers of drugs, druggists' supplies, herbs and weeds (NAICS 424210); importers of flowers, nursery stock, and florists' supplies (NAICS 424930), importers of fresh fruits and vegetables (NAICS 424480); importers of other grocery and related products, such as coffee (NAICS 424490); importers of grains and field beans (NAICS 424510); importers of other farm product raw material, such as raw cotton, sugarcane, honeybees and honeybee semen (NAICS 424590); and importers of farm supplies (NAICS 424910). The Small Business Administration (SBA) has established guidelines for determining which establishments are to be considered small. Imports/export merchants, agents and brokers are identified within the broader wholesaling trade sector.

A firm classified within any of these NAICS wholesale industry categories is considered small if it employs not more than 100 persons. Based on information from the 2007 Economic Census, as shown in table 3, the majority of entities that comprise these industries have fewer than 100 employees.

TABLE 3—PREVALENCE OF SMALL ENTITIES IN CERTAIN INDUSTRIES THAT MAY BE AFFECTED BY THE RULE, 2007

Industry wholesale merchants	Number of all establishments	Number of establishments that operated the entire year	Number of establishments with 100 or more employees that operated the entire year	Number of establishments with fewer than 100 employees that operated the entire year	Small-entity establishments as a percentage of those that operated the entire year (percent)
Lumber, plywood, millwork, wood panel (NAICS 423310)	8,984	8,303	2,123	6,180	74
Other miscellaneous durable goods, construction material logs, timber, packing material (NAICS 423990)	10,270	8,764	532	8,232	94

TABLE 3—PREVALENCE OF SMALL ENTITIES IN CERTAIN INDUSTRIES THAT MAY BE AFFECTED BY THE RULE, 2007—Continued

Industry wholesale merchants	Number of all establishments	Number of establishments that operated the entire year	Number of establishments with 100 or more employees that operated the entire year	Number of establishments with fewer than 100 employees that operated the entire year	Small-entity establishments as a percentage of those that operated the entire year (percent)
Drugs, druggists' supplies, botanical drugs, herbs, weeds (NAICS 424210)	8,535	7,700	2,321	5,379	70
Fresh fruits and vegetables (NAICS 424480)	5,074	4,437	230	4,207	95
Other grocery and related products, (coffee) (NAICS 424490)	13,068	11,763	3,286	8,477	72
Grains and field beans (NAICS 424510)	4,851	4,680	1,238	3,442	74
Other farm product raw material (raw cotton, sugarcane, honeybees, honeybee semen) (NAICS 424590)	765	663	43	620	94
Farm supplies (NAICS 424910)	7,738	7,199	61	7,138	99
Flower, nursery stock, and florists' supplies (NAICS 424930)	4,218	3,601	67	3,534	98

While nearly all of the entities that may be affected by the proposed rule are small, none of the economic effects would be significant. The proposed rule would make the permit procedures more transparent and easier to use, enable APHIS to evaluate a permit application more quickly and thoroughly, and allow for more efficient control of the issuance of permits and entry of regulated articles.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

7 CFR Part 360

Imports, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Weeds.

Accordingly, we propose to amend 7 CFR chapter III as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450 and 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.6 is amended by revising paragraph (g) to read as follows:

§ 319.6 Controlled import permits.

* * * * *

(g) *Denial, withdrawal, cancellation, or revocation of permit.* The Administrator may deny a permit application in accordance with § 319.7–3, and a permit may be withdrawn, canceled, or revoked in accordance with § 319.7–4.

(1) *Action upon revocation of permit.* Upon revocation of a permit, the permittee must surrender, destroy, or remove all regulated plant material covered by the permit in accordance with § 319.7–4(e).

(2) *Appeal of denial or revocation.* Any person whose application for a permit has been denied or whose permit has been revoked may appeal the denial or revocation in accordance with § 319.7–5.

* * * * *

■ 3. A subpart, consisting of §§ 319.7 through 319.7–5, is added to read as follows:

Subpart—Permits: Application, Issuance, Denial, and Revocation

Sec.

319.7 Definitions.
319.7–1 Applying for a permit.
319.7–2 Issuance of permits and labels.
319.7–3 Denial of permits.
319.7–4 Withdrawal, cancellation, and revocation of permits.
319.7–5 Appeal of denial or revocation.

Subpart—Permits: Application, Issuance, Denial, and Revocation

§ 319.7 Definitions.

Administrative instructions. Published documents related to the enforcement of this part and issued under authority of the Plant Protection Act, as amended, by the Administrator.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Applicant. A person at least 18 years of age who, on behalf of him or herself or another person, submits an application for a permit to import into the United States or move interstate a regulated article in accordance with this part.

Approved. Approved by the Administrator of the Animal and Plant Health Inspection Service.

Article. Any material or tangible objects that could harbor plant pests or noxious weeds.

Consignment. A quantity of plants, plant products, and/or other articles

being moved from one country to another authorized when required, by a single permit. A consignment may be composed of one or more commodities or lots.

Country of origin. The country where the plants, or plants from which the plant products are derived or were grown or where the non-plant articles were produced.

Enter, entry. To move into, or the act of movement into, the commerce of the United States.

Import, importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of the Animal and Plant Health Inspection Service or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

Intended use. The purpose for the importation of the regulated article, including, but not limited to, consumption, propagation, or research purposes.

Lot. All the regulated articles on a single means of conveyance that are derived from the same species of plant or are the same type of non-plant article and were subjected to the same treatments prior to importation, and that are consigned to the same person.

Means of conveyance. Any personal property used for or intended for use for the movement of any other personal property.

Move. To carry, enter, import, mail, ship, or transport; to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment; or to allow any of the activities described in this definition.

Oral authorization. Verbal permission to import that may be granted by an inspector at the port of entry.

Permit. A written authorization, including by electronic methods, to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Administrator.

Permittee. The person who, on behalf of self or another person, is legally the importer of an article, meets the requirements of § 319.7–2(f), and is responsible for compliance with the conditions for the importation that is the subject of a permit issued in accordance with part 319.

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Plant pest. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan; a nonhuman animal; a parasitic plant; a bacterium; a fungus; a virus or viroid; an infectious agent or other pathogen; or any article similar to or allied with any of the foregoing enumerated articles.

Plant product. Any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant, or any manufactured or processed plant or plant part.

Port of entry. A port at which a specified shipment or means of conveyance is accepted for entry or admitted without entry into the United States for transit purposes.

Port of first arrival. The area (such as a seaport, airport, or land border) where a person or means of conveyance first arrives in the United States, and where inspection of regulated articles may be carried out by inspectors.

PPQ. The Plant Protection and Quarantine Program, Animal and Plant Health Inspection Service of the United States Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines and regulations.

Regulated article. Any material or tangible object regulated by this part for entry into the United States or interstate movement.

Soil. The unconsolidated material from the earth's surface that consists of rock and mineral particles mixed with organic material and that supports or is capable of supporting biotic communities.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

Treatment. A procedure approved by the Administrator for neutralizing infestations or infections of plant pests or diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

United States. All of the States.

§ 319.7–1 Applying for a permit.

(a) Persons who wish to import regulated articles into the United States must apply for a permit, unless the regulated articles are not subject to a requirement under this part that a permit be issued prior to a consignment's arrival. An applicant for a permit to import regulated articles into the United States in accordance with this part must be:

(1) Capable of acting in the capacity of the permittee in accordance with § 319.7–2(e), or must designate a permittee who is so capable should the permit be issued;

(2) Applying for a permit on behalf of self or on behalf of another person as permittee; and

(3) At least 18 years of age.

(b) Permit applications must be submitted by the applicant in writing or electronically through one of the means listed at *http://www.aphis.usda.gov/plant_health/permits/index.shtml* in advance of the action(s) proposed on the permit application.

(c) The application for a permit must contain the following information:

(1) Legal name, address, and contact information of the applicant, and of the permittee if different from the applicant;

(2) Specific type of regulated article (common and scientific names, if applicable);

(3) Country of origin;

(4) Intended use of the regulated article;

(5) Intended port of first arrival; and

(6) A description of any processing, treatment, or handling of the regulated article to be performed prior to or following importation, including the location where any processing or treatment was or will be performed and the names and dosage of any chemical employed in treatments of the regulated article.

(d) The application for a permit may also require the following information:

(1) Means of conveyance;

(2) Quantity of the regulated article;

(3) Estimated date of arrival;

(4) Name, address, and contact information of any broker or subsequent custodian of the regulated article;

(5) Exporting country from which the article is to be moved, when not the country of origin; and

(6) Any other information determined to be necessary by APHIS to inform the decision to issue the permit.

(e) Application for a permit to import regulated articles into the United States must be submitted at least 30 days prior to arrival of the article at the port of entry.

(1) If, through no fault of the importer, a consignment of regulated articles

subject to a requirement under this part that a permit be issued prior to a consignment's arrival arrives at a U.S. port before a permit is received, the consignment may be held, under suitable safeguards prescribed by the inspector, in custody at the risk and expense of the importer pending issuance of a permit or authorization from APHIS.

(2) An oral authorization may be granted by an inspector at the port of entry for a consignment, provided that:

(i) All applicable entry requirements are met;

(ii) Proof of application for a written permit is provided to the inspector; and

(iii) PPQ verifies that the application for a written permit has been received and that PPQ intends to issue the permit.

§ 319.7–2 Issuance of permits and labels.

(a) Upon receipt of an application, a permit indicating the applicable conditions for importation will be issued by APHIS if, after review of the application, the regulated articles are, at the discretion of the Administrator, deemed eligible by the Administrator to be imported into the United States under the conditions specified in the permit. A permit will be issued specifying the applicable conditions of entry and the port of entry, and a copy will be provided to the permittee. The permit will only be valid for the time period indicated on the permit.

(b) The applicant for a permit for the importation of regulated articles into the United States must designate the person who will be named as the permittee upon the permit's issuance. The applicant and the permittee may be the same person.

(c) The act, omission, or failure of the permittee as an officer, agent, or person acting for or employed by any other person within the scope of his or her employment or office will be deemed also to be the act, omission, or failure of the other person.

(d) Failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of any future permits, and civil or criminal penalties for the permittee.

(e) The permittee will remain responsible for the consignment regardless of any delegation to a subsequent custodian of the importation.

(f) A permittee must:

(1) If an individual, have and maintain an address in the United States that is specified on the permit and be physically present during normal business hours at that address during any periods when articles are being imported or moved interstate under the permit; or

(2) If another legal entity, maintain an address or business office in the United States with a designated individual for service of process; and

(3) Serve as the contact for the purpose of communications associated with the movement of the regulated article for the duration of the permit. The PPQ Permit Unit must be informed of a change in contact information for the permittee within 10 business days of such change;

(4) Ensure compliance with the applicable regulatory requirements and permit conditions associated with the movement of the regulated article for the duration of the permit;

(5) Provide written or electronic acknowledgment and acceptance of permit conditions when APHIS requests such acknowledgment;

(6) Serve as the primary contact for communication with APHIS regarding the permit;

(7) Acknowledge in writing that in accordance with Section 8313 of the Plant Protection Act (7 U.S.C. 7701 et seq.), the actions, omissions, or failures of any agent of the permittee may be deemed the actions, omissions, or failures of a permittee as well; and that failure to comply with all of the conditions specified in the permit or any applicable regulations or administrative instructions, or forging, counterfeiting, or defacing permits or shipping labels, may result in immediate revocation of the permit, denial of any future permits, and civil or criminal penalties for the permittee; and

(8) Maintain all conditions of the permit for the entirety of its prescribed duration.

(g) The regulated article may be imported only if all applicable requirements of the permit issued for the importation of the regulated article or any other documents or instructions issued by APHIS are met.

(h) In accordance with the regulations in this part, labels may be issued to the permittee for the importation of regulated articles. Such labels may contain information about the shipment's nature, origin, movement conditions or other matters relevant to the permit and will indicate that the importation is authorized under the conditions specified in the permit.

(1) If issued, the quantity of labels will be sufficient for the permittee to attach one to each parcel. Labels must be affixed to the outer packaging of the parcel.

(2) Importations without such required labels will be refused entry into the United States, unless a label is not required and not issued for the importation.

(i) Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary to mitigate or address any plant pest or noxious weed risks.[1]

(j) A permit application may be withdrawn at the request of the applicant prior to the issuance of the permit.

(k) A permit may be canceled after issuance at the request of the permittee.

(l) A permit may be amended if APHIS finds that the permit is incomplete or contains factual errors.

§ 319.7–3 Denial of permits.

(a) APHIS may deny an application for a permit to import a regulated article into the United States. A denial, including the reason for the denial, will be provided in writing, including by electronic methods, to the applicant as promptly as circumstances permit. The denial of a permit may be appealed in accordance with § 319.7–5.

(b) APHIS may deny an application for a permit to import a regulated article:

(1) If APHIS determines that the applicant is not likely to abide by permit conditions. Factors that may lead to such a determination include, but are not limited to, the following:

(i) The applicant, or a partnership, firm, corporation, or other legal entity in which the applicant has a substantial interest, financial or otherwise, has not complied with any permit that was previously issued by APHIS;

(ii) APHIS determines that issuing the permit would circumvent any order revoking or denying a permit under the Plant Protection Act.

(iii) APHIS determines that the applicant has previously failed to comply with any APHIS regulation

(iv) APHIS determines that the applicant has previously failed to comply with any Federal, State, or local law, regulation or instruction concerning the importation of prohibited or restricted foreign agricultural products;

[1] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, and other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(v) APHIS determines that the applicant has failed to comply with the laws or regulations of a national plant protection organization or equivalent body, as these pertain to plant health;

(vi) APHIS determines that the applicant has made false or fraudulent statements or provided false or fraudulent records to APHIS, or;

(vii) The applicant has been convicted or has pled nolo contendere to any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity.

(2) If the application for a permit contains information that is found to be materially false, fraudulent, deceptive, or misrepresentative;

(3) If APHIS concludes that the actions proposed under the permit would present an unacceptable risk to plants and plant products because of the introduction or dissemination of a plant pest, biological control organism, or noxious weed within the United States;

(4) If the importation is adverse to the conduct of an eradication, suppression, control, or regulatory program of APHIS;

(5) If the importation is adverse to applicable import regulations or any administrative instructions or measures; or

(6) If the State executive official, or a State plant protection official authorized to do so, objects to the movement in writing and provides specific, detailed information that there is a risk the movement will result in the dissemination of a plant pest or noxious weed into the State, and APHIS determines that such plant pest risk cannot be adequately addressed or mitigated.

§ 319.7–4 Withdrawal, cancellation, and revocation of permits.

(a) *Withdrawal of an application.* If the applicant wishes to withdraw a permit application before issuance of a permit, he or she must provide the request in writing to APHIS. APHIS will provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

(b) *Cancellation of permit by permittee.* If a permittee wishes to cancel a permit after its issuance, he or she must provide the request in writing to APHIS. APHIS will provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

(c) *Revocation of permit by APHIS.* APHIS may revoke any outstanding permit to import regulated articles into the United States. A revocation, including the reason for the revocation, will be provided in writing, including by electronic methods, to the permittee as promptly as circumstances permit. The revocation of a permit may be appealed in accordance with § 319.7–5.

(d) APHIS may revoke a permit to import a regulated article if:

(1) Information is received subsequent to the issuance of the permit of circumstances that APHIS determines would constitute cause for the denial of an application under § 319.7–3; or

(2) APHIS determines that the permittee has failed to maintain the safeguards or otherwise observe the conditions specified in the permit or in any applicable regulations or administrative instructions.

(e) Upon revocation of a permit, the permittee must, without cost to the Federal Government and in the manner and method APHIS considers appropriate, either:

(1) Surrender all regulated articles covered by the revoked permit and any other affected plant material to an inspector;

(2) Destroy, under the supervision of an inspector, all regulated articles covered by the revoked permit and any other affected plant material; or

(3) Remove all regulated articles covered by the revoked permit and any other affected plant material from the United States.

§ 319.7–5 Appeal of denial or revocation.

(a) All denials of an application for a permit, or revocations of an existing permit, will be provided in writing, including by electronic methods, as promptly as circumstances permit and will include the reasons for the denial or revocation.

(b) Any person whose application for a permit has been denied or whose permit has been revoked may appeal the decision in writing to APHIS within 10 business days from the date the communication of notification of the denial or revocation of the permit was received. The appeal must state all facts and reasons upon which the person is relying to show that the denial or revocation was incorrect.

(c) APHIS will grant or deny the appeal in writing and will state in writing the reason for the decision. The denial or revocation will remain in effect during the resolution of the appeal.

§ 319.8–1 [Amended]

■ 4. In § 319.8–1, the definition of *permit* is amended by adding the words ''and in §§ 319.7 through 319.7–5'' before the period.

§ 319.8–2 [Amended]

■ 5. Section 319.8–2 is amended as follows:

■ a. In paragraph (a), by removing, in the third sentence, the words ''stating the name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import'' and footnote 1, and adding the words ''for a permit in accordance with §§ 319.7 through 319.7–5'' in their place.

■ b. By redesignating footnote 2 as footnote 1.

■ c. By removing paragraphs (c) and (d) and redesignating paragraphs (e) and (f) as paragraphs (c) and (d), respectively.

■ d. In newly redesignated paragraph (d), in the first sentence, by removing the words ''with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto'' and adding the words ''with all of the conditions specified in the permit and any applicable regulations or administrative instructions of this part'' in their place, and by removing the second and third sentences.

■ e. By removing paragraph (g) and redesignating paragraph (h) as paragraph (e).

§ 319.8–8 [Amended]

■ 6. Section 319.8–8 is amended by redesignating footnote 3 as footnote 2.

§ 319.8–11 [Amended]

■ 7. Section 319.8–11 is amended by redesignating footnote 4 as footnote 3.

§ 319.8–17 [Amended]

■ 8. Section 319.8–17 is amended by redesignating footnote 5 as footnote 4.

■ 9. Section 319.24–1 is revised to read as follows:

§ 319.24–1 Application for permits for importation of corn.

Persons contemplating the importation of corn into the United States shall obtain a permit in accordance with §§ 319.7 through 319.7–5.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 319.24–2 [Removed and Reserved]

■ 10. Section 319.24–2 is removed and reserved.

§ 319.24–4 [Removed and Reserved]

■ 11. Section 319.24–4 is removed and reserved.

§ 319.28 [Amended]

■ 12. Section 319.28 is amended by removing paragraphs (i) and (j).

■ 13. Section 319.37–3 is amended as follows:

■ a. In paragraph (a) introductory text, by adding the words ''in accordance with §§ 319.7 through 319.7–5'' after the word ''Programs''.
■ b. By removing and reserving paragraph (b) and removing footnote 4.
■ c. By redesignating footnote 5 as footnote 4.
■ d. By revising paragraph (d).
■ e. By removing paragraphs (e) and (f) and redesignating paragraphs (g) and (h) as paragraphs (e) and (f), respectively.

The revision reads as follows:

§ 319.37–3 Permits.

* * * * *

(d) Any permit that has been issued may be revoked by an inspector or APHIS in accordance with § 319.7–4.

* * * * *

§ 319.37–5 [Amended]

■ 14. Section 319.37–5 is amended by redesignating footnote 6 as footnote 5.

§ 319.37–6 [Amended]

■ 15. Section 319.37–6 is amended by redesignating footnote 7 as footnote 6.

§ 319.37–7 [Amended]

■ 16. Section 319.37–7 is amended by redesignating footnote 8 as footnote 7.

§ 319.37–8 [Amended]

■ 17. Section 319.37–8 is amended by redesignating footnotes 9, 10, and 11 as footnotes 8, 9, and 10, respectively.

§ 319.37–13 [Amended]

■ 18. Section 319.37–13 is amended by redesignating footnote 12 as footnote 11.

§ 319.40–4 [Amended]

■ 19. Section 319.40–4 is amended as follows:
■ a. By revising paragraph (a).
■ b. By removing paragraphs (b)(3), (c), and (d).

The revision reads as follows:

§ 319.40–4 Application for a permit to import regulated articles; issuance and withdrawal of permits.

(a) *Application procedure.* A written application for a permit must be obtained and submitted in accordance with §§ 319.7 through 319.7–5.

* * * * *

§ 319.40–5 [Amended]

■ 20. Section 319.40–5 is amended by redesignating footnote 3 as footnote 1.

§ 319.40–9 [Amended]

■ 21. Section 319.40–5 is amended by redesignating footnotes 4 and 5 as footnotes 2 and 3, respectively.

§ 319.40–10 [Amended]

■ 22. Section 319.40–10 is amended by redesignating footnote 6 as footnote 4.

■ 23. Section 319.41–2 is revised to read as follows:

§ 319.41–2 Application for permits.

Persons contemplating the importation of any of the articles specified in § 319.41–1(b) shall first make application to the Plant Protection and Quarantine Program for a permit in accordance with §§ 319.7 through 319.7–5.

(Approved by the Office of Management and Budget under control number 0579–0049)

■ 24. Section 319.41–6 is revised to read as follows:

§ 319.41–6 Importations by mail.

In addition to entries by freight or express provided for in § 319.41–5, importations are permitted by mail of mature corn on the cob from the countries specified in § 319.41–1(b)(2), and clean shelled corn and clean seed of the other plants covered by § 319.41, provided that a permit has been issued for the importation in accordance with §§ 319.7 through 319.7–5 and all conditions of the permit are met.

(Approved by the Office of Management and Budget under control number 0579–0049)

■ 25. Section 319.55–2 is revised to read as follows:

§ 319.55–2 Application for permit.

Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any country may be made to the Plant Protection and Quarantine Programs in accordance with §§ 319.7 through 319.7–5.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 319.55–4 [Removed and Reserved]

■ 26. Section 319.55–4 is removed and reserved.

■ 27. Section 319.55–7 is revised to read as follows:

§ 319.55–7 Importations by mail.

Importations of seed or paddy rice, rice straw, and rice hulls from all foreign countries and localities may be made by mail or cargo, provided that a permit has been issued for the importation in accordance with §§ 319.7 through 319.7–5 and all conditions of the permit are met.

(Approved by the Office of Management and Budget under control number 0579–0049)

■ 28. Section 319.56–3 is amended as follows:
■ a. By revising paragraph (b)(2).
■ b. By removing paragraphs (b)(3), (b)(4), (b)(5), and (b)(6).
■ c. In paragraph (c)(1), by removing the words ''under paragraph (b) of this section'' and adding in their place the words ''in accordance with this section and with §§ 319.7 through 319.7–5''.

The revision reads as follows:

§ 319.56–3 General requirements for all imported fruits and vegetables.

* * * * *

(b) * * *

(2) Persons contemplating the importation of any fruits or vegetables under this subpart must apply for a permit in accordance with §§ 319.7 through 319.7–5.

* * * * *

■ 29. Section 319.75 is amended as follows:
■ a. By revising the section heading.
■ b. In paragraphs (a) and (c), by removing the word ''restricted'' each time it appears and adding the word ''regulated'' in its place.

§ 319.75 Restrictions on importation of regulated articles; disposal of articles refused importation.

* * * * *

§ 319.75–1 [Amended]

■ 30. In § 319.75–1, the definition of *phytosanitary certificate of inspection* is amended by removing the word ''restricted'' each time it appears and adding the word ''regulated'' in its place.

■ 31. Section 319.75–2 is amended as follows:
■ a. By revising the section heading.
■ b. In paragraph (a) introductory text, by removing the word ''restricted'' each time it appears and adding the word ''regulated'' in its place.

The revision reads as follows:

§ 319.75–2 Regulated articles.[1]

* * * * *

[1] The importation of regulated articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of Subpart—Fruits and Vegetables of this part.

* * * * *

■ 32. Section 319.75–3 is revised to read as follows:

§ 319.75–3 Permits.

A restricted article may be imported only after issuance of a written permit or oral authorization by the Plant Protection and Quarantine Programs in accordance with §§ 319.7 through 319.7–5.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 319.75–4 [Amended]

■ 33. Section 319.75–4 is amended by removing the word ''restricted'' and adding the word ''regulated'' in its place.

§ 319.75–5 [Amended]

■ 34. In § 319.75–5, paragraphs (a) and (b) are amended by removing the word ''restricted'' each time it appears in and adding the word ''regulated'' in its place.

§ 319.75–6 [Amended]

■ 35. Section 319.75–6 is amended by removing the word ''restricted'' and adding the word ''regulated'' in its place.

§ 319.75–7 [Amended]

■ 36. In § 319.75–7, footnote 3 is redesignated as footnote 4.

§ 319.75–8 [Amended]

■ 37. Section 319.75–8 is amended by removing the word ''restricted'' both times it appears and adding the word ''regulated'' in its place.

§ 319.75–9 [Amended]

■ 38. In § 319.75–9, paragraphs (a), (b), and (c) are amended by removing the word ''restricted'' each time it appears in and adding the word ''regulated'' in its place.

PART 322—BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT

■ 39. The authority citation for part 322 continues to read as follows:

Authority: 7 U.S.C. 281; 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 40. In § 322.13, paragraph (b) is revised to read as follows:

§ 322.13 General requirements; restricted organisms.

* * * * *

(b) Persons importing restricted organisms into the United States must be and Federal, State, or university researchers; be at least 18 years of age; and be physically present during normal business hours at an address within the United States specified on the permit during any periods when articles are being imported or moved interstate under the permit. All such importations must be for research or experimental purposes and in accordance with this part.

§ 322.14 [Amended]

■ 41. In § 322.14, paragraph (a)(1) is amended by removing the second and third sentences.

■ 42. Section 322.15 is amended by revising the section heading, adding paragraph (c)(5), and revising paragraph (e) to read as follows:

§ 322.15 APHIS review of permit applications; denial or revocation of permits.

* * * * *

(c) * * *

(5) APHIS may also deny a permit to import restricted organisms:

(i) To a person who has previously failed to comply with any APHIS regulation, except:

(A) A permit revoked in an investigation concerning that failure has been reinstated on appeal, at the discretion of APHIS; or

(B) All measures ordered by APHIS to correct the failure, including but not limited to, payment of penalties or restitution, have been complied with to the satisfaction of APHIS.

(ii) To a person who has previously failed to comply with any international or Federal regulation or instruction concerning the importation of prohibited or restricted foreign agricultural products; or

(iii) If the application for a permit contains information that is found to be materially false, fraudulent, deceptive, or misrepresentative.

* * * * *

(e) *Appealing the denial of permit applications or revocation of permits.* If your permit application has been denied or your permit has been revoked, APHIS will inform you in writing, including by electronic methods, as promptly as circumstances permit and will include the reasons for the denial or revocation. You may appeal the decision by writing to APHIS within 10 business days from the date you received the communication notifying you of the denial or revocation of the permit. Your appeal must state all facts and reasons upon which you are relying to show that your permit application was wrongfully denied or your permit was wrongfully revoked. APHIS will grant or deny the appeal in writing and will state in writing the reason for the decision. The denial or revocation will remain in effect during the resolution of the appeal.

* * * * *

PART 360—NOXIOUS WEED REGULATIONS

■ 43. The authority citation for part 360 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 44. Section 360.304 is amended as follows:

■ a. By revising the section heading.

■ b. In paragraph (a)(5), by removing the period at the end of the sentence and adding the word ''; or'' in its place.

■ c. By adding paragraphs (a)(6) and (7).

■ d. In paragraph (b), introductory text, by removing the word ''cancel'' and adding the word ''revoke'' in its place.

■ e. In paragraph (c), by removing the word ''canceled'' each time it appears and adding the word ''revoked'' in its place, and by removing the word ''cancellation'' and adding the word ''revocation'' in its place.

The revision and additions read as follows:

§ 360.304 Denial of an application for a permit to move a noxious weed; revocation of a permit to move a noxious weed.

(a) * * *

(6) The application for the permit contains information that is found to be materially false, fraudulent, or deceptive.

(7) APHIS may deny a permit to a person who has previously failed to comply with any APHIS regulation.

* * * * *

■ 45. Section 360.305 is amended by revising the section heading and by removing the word ''canceled'' each time it appears and adding the word ''revoked'' in its place.

The revision reads as follows:

§ 360.305 Disposal of noxious weeds when permits are revoked.

* * * * *

Done in Washington, DC, this 14th day of June 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–14638 Filed 6–20–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[Docket No. EERE–2013–BT–NOC–0023]

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Meetings for the Commercial HVAC, WH, and Refrigeration Certification Working Group and Announcement of Working Group Members To Negotiate Commercial Certification Requirements for Commercial HVAC, WH, and Refrigeration Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meetings.

SUMMARY: This notice announces the open meetings of the Commercial

Heating, Ventilation, and Air-conditioning (HVAC), Water Heating (WH), and Refrigeration Certification Working Group (Commercial Certification Group). The purpose of the Commercial Certification Group is to undertake a negotiated rulemaking to discuss and, if possible, reach consensus on proposed certification requirements for commercial HVAC, WH, and refrigeration equipment, as authorized by the Energy Policy and Conservation Act of 1975, as amended.

DATES: For dates of meetings, see Public Participation in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: All meetings will be held at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 except for the June 21, 2013 and August 7, 2013 meetings. Those meeting locations are to be determined. Individuals will also have the opportunity to participate by webinar. To register for the webinar and receive call-in information, please register at *http://www1.eere.energy.gov/buildings/appliance_standards/asrac.html*.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, ASRAC Designated Federal Officer, Supervisory Operations Research Analyst, U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, 950 L'Enfant Plaza SW., Washington, DC 20024. Email: *asrac@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

Membership: The members of the Certification Working Group were chosen from nominations submitted in response to the DOE's call for nominations published in the **Federal Register** on Tuesday, March 12, 2013. 78 FR 15653. The selections are designed to ensure a broad and balanced array of stakeholder interests and expertise on the negotiating working group for the purpose of developing a rule that is legally and economically justified, technically sound, fair to all parties, and in the public interest. All meetings are open to all stakeholders and the public, and participation by all is welcome within boundaries as required by the orderly conduct of business. The members of the Certification Group are as follows:

DOE and ASRAC Representatives

- Laura Barhydt (U.S. Department of Energy)
- John Mandyck (UTC Climate, Controls & Security)
- Kent Peterson (P2S Engineering, Inc.)

Other Selected Members

- Karim Amrane (Air-Conditioning, Heating and Refrigeration Institute)
- Timothy Ballo (EarthJustice)
- Jeff Bauman (National Refrigeration & Air-Conditioning)
- Brice Bowley (GE Appliances)
- Mary Dane (Traulsen)
- Paul Doppel (Mitsubishi Electric US, Inc.)
- Geoffrey Halley (SJI Consultants, Inc.)
- Pantelis Hatzikazakis (Lennox International, Inc.)
- Charles Hon (True Manufacturing)
- Jill Hootman (Trane)
- Marshall Hunt (Pacific Gas and Electric Company)
- Michael Kojak (Underwriters Laboratories LLC)
- Karen Meyers (Rheem Manufacturing Co.)
- Peter Molvie (Cleaver-Brooks Product Development)
- Neil Rolph (Lochinvar, LLC)
- Harvey Sachs (American Council for an Energy-Efficient Economy)
- Ronald Shebik (Hussmann Corporation)
- Judd Smith (CSA)
- Louis Starr (Northwest Energy Efficiency Alliance)
- Phillip Stephens (Heat Transfer Products)
- Russell Tharp (Goodman Manufacturing)
- Eric Truskoski (Bradford White Corp.)

Purpose of Meeting: To provide advice and recommendations to the U.S. Department of Energy on certification requirements of commercial HVAC, WH, and refrigeration equipment under the authority of the Negotiated Rulemaking Act (5 U.S.C. 561–570, Pub. L. 104–320).

Public Participation: Open meetings will be held on: Friday, June 21, 2013 from 9:00 a.m. to 5:00 p.m. EDT; Monday, July 1, 2013 from 10:00 a.m. to 6:00 p.m. EDT; Tuesday, July 2, 2013 from 8:00 a.m. to 3:00 p.m. EDT; Wednesday, July 17, 2013 from 10:00 a.m. to 6:00 p.m. EDT; Thursday, July 18, 2013 from 8:00 a.m. to 3:00 p.m. EDT; Wednesday, July 31, 2013 from 10:00 a.m. to 6:00 p.m. EDT; Thursday, August 1, 2013 from 8:00 a.m. to 6:00 p.m. EDT; Wednesday, August 7, 2013 from 10:00 a.m. to 6:00 p.m. EDT; Thursday, August 8, 2013 from 8:00 a.m. to 3:00 p.m. EDT; Wednesday, August 21, 2013 from 10:00 a.m. to 6:00 p.m. EDT; Thursday, August 22, 2013 from 8:00 a.m. to 3:00 p.m. EDT; Monday, August 26, 2013 from 10:00 a.m. to 3:00 p.m. EDT; Tuesday, August 27, 2013 EDT.

To attend the meetings and/or to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov*. In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meetings should advise ASRAC staff as soon as possible by emailing *asrac@ee.doe.gov* to initiate the necessary procedures, no later than two weeks before each meeting. Anyone attending the meetings will be required to present a government photo identification, such as a passport, driver's license, or government identification. Due to the required security screening upon entry, individuals attending should arrive early to allow for the extra time needed.

Members of the public will be heard in the order in which they sign up for the Public Comment Period. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed five minutes. Reasonable provision will be made to include the scheduled oral statements on the agenda. A third-party neutral facilitator will make every effort to allow the presentations of views of all interested parties and to facilitate the orderly conduct of business.

Participation in the meetings is not a prerequisite for submission of written comments. Written comments are welcome from all interested parties. Any comments submitted must identify the Commercial HVAC, WH, and Refrigeration Certification Working Group, and provide docket number EERE–2013–BT–NOC–0023. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.

2. *Email: ASRACworkgroup2013NOC0023@ee.doe.gov*. Include docket number EERE–2013–BT–NOC–0023 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The Secretary of Energy has approved publication of today's notice of proposed rulemaking.

Issued in Washington, DC, on June 17, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–14847 Filed 6–20–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0805; Directorate Identifier 2012–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed to rescind an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes. The proposed AD action would have rescinded the existing AD, which requires an inspection to determine if certain motor operated valve (MOV) actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. Since the proposed AD action was issued, we have determined that the proposed AD action does not adequately address the safety concerns. Accordingly, the proposed AD action is withdrawn.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, the proposed rule (77 FR 47329, August 8, 2012), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6509; fax: (425) 917–6590; email: *Rebel.Nichols@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) to rescind AD 2009–22–13, Amendment 39–16066 (74 FR 55755, October 29, 2009). That AD applies to the specified products. The NPRM published in the **Federal Register** on August 8, 2012 (77 FR 47329). That NPRM proposed to rescind AD 2009–22–13, which requires an inspection to determine if certain MOV actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. That AD resulted from fuel system reviews conducted by the manufacturer. The proposed actions were intended to prevent an unsafe condition from being introduced on airplanes affected by AD 2009–22–13.

Comments

We gave the public the opportunity to participate in considering the proposal (77 FR 47329, August 8, 2012) to rescind AD 2009–22–13, Amendment 39–16066 (74 FR 55755, October 29, 2009). The following presents relevant comments received on the proposal and the FAA's response.

Requests To Clarify ''Different Unsafe Condition''

UPS and Boeing requested clarification of the different unsafe condition introduced by the actions required by AD 2009–22–13, Amendment 39–16066 (74 FR 55755, October 29, 2009). UPS stated there is no clear direction on which unsafe condition would have a greater impact to the continued safe operation of the airplane, and subsequently, it is not clear what further action should be done to address airplanes on which the requirements of AD 2009–22–13 have been accomplished.

We agree that clarification of the different unsafe condition is necessary. AD 2009–22–13, Amendment 39–16066 (74 FR 55755, October 29, 2009), addresses the potential for an electrical current to flow through certain MOV actuators into the fuel tank. The new MOV actuators are required by AD 2009–22–13 for 11 to 13 locations (depending on configuration) on the airplane, and that AD addresses an unsafe condition related to Special Federal Aviation Regulation No. 88 (''SFAR 88'' (66 FR 23086, May 7, 2001), Amendment 21–78, and subsequent Amendments 21–82 and 21–83). However, the new MOV actuators have been found to have a risk of latent failure. At three of the 11 to 13 locations, this actuator failure could result in a different unsafe condition—an inability to shut off fuel flow to an APU or engine during an engine fire. This latent failure is not a safety risk in the other eight to ten locations.

We have determined that AD 2009–22–13, Amendment 39–16066 (74 FR 55755, October 29, 2009), should not be rescinded, but should continue to require actions that address SFAR 88-related safety. Because AD 2009–22–13 does address a significant safety risk, it is not in the interest of safety to rescind that AD. For the new MOV actuators, we are considering further rulemaking to address the three locations where a latent failure of the actuator could result in a failure to shut off fuel flow during an engine fire.

FAA's Conclusions

Upon further consideration, we have determined that the NPRM (77 FR 47329, August 8, 2012) does not adequately address the safety concern. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM (77 FR 47329, August 8, 2012) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (77 FR 47329, August 8, 2012), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2012–0805, Directorate Identifier 2012–NM–117–AD, which was published in the **Federal Register** on August 8, 2012 (77 FR 47329).

Issued in Renton, Washington, on June 13, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14861 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0463; Directorate Identifier 2012–NM–165–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, –200 Freighter, and –300 series airplanes. This proposed AD was prompted by a report that a certain wire harness located in the tail cone has wiring of a narrower gauge than design requires. This proposed AD would require replacing the affected wire harness. We are proposing this AD to prevent damage to the affected wiring, which could create an ignition source in an area that might contain fuel vapors, possibly resulting in an uncontrolled fire and subsequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 5, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1138; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0463; Directorate Identifier 2012–NM–165–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0182, dated September 11, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> On a production aeroplane, it has been discovered that wires in harness 5877VB, installed in the Tail Cone (Section 19.1) and connected to the Auxiliary Power Unit starter, have a section smaller [narrower] than required by design. Section 19 is a flammable fluid leakage zone, adjacent to a fuel tank (trim tank) and is open with Section 19.1. The results of the investigation show that this issue is a manufacturing quality issue. Airbus identified a list of other aeroplanes that are affected.
>
> This condition, if not corrected, could damage the wiring which may create an ignition source in an area that may contain fuel vapours, possibly resulting in an uncontrolled fire and subsequent loss of the aeroplane.
>
> * * * * *
>
> For the reasons described above, this [EASA] AD requires the replacement of the affected wiring harness.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A330–92–3116, dated April 25, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1 product of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $2,920 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control

warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $3,260, or $3,260 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Airbus: Docket No. FAA–2013–0463; Directorate Identifier 2012–NM–165–AD.

(a) Comments Due Date

We must receive comments by August 5, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243 –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; certificated in any category; manufacturer serial numbers 1070, 1127, 1133, 1135, 1137, 1138, 1141, 1143, 1145, 1146, 1147, 1149, 1150, 1151, 1153, 1155, 1156, 1157, 1159, 1160, 1161, 1165, 1167, 1168, 1169, 1171, 1172, 1173, 1174, 1177, 1178, 1181, 1183, 1184, 1186, 1187, 1188, 1189, 1191, 1195, 1196, and 1202.

(d) Subject

Air Transport Association (ATA) of America Code 92.

(e) Reason

This AD was prompted by a report that a certain wire harness located in the tail cone has wiring of a narrower gauge than design requires. We are issuing this AD to prevent damage to the affected wiring, which could create an ignition source in an area that might contain fuel vapors, possibly resulting in an uncontrolled fire and subsequent loss of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Actions

Within 24 months after the effective date of this AD: Replace wiring harness 5877VB located in section 19.1, Frame 91 to Frame 96, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–92–3116, dated April 25, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1138; fax: (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(i) Related Information

(1) Refer to European Aviation Safety Agency (EASA) Mandatory Continuing Airworthiness Information (MCAI) Airworthiness Directive 2012–0182, dated September 11, 2012, for related information.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax + 33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 12, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14864 Filed 6–20–13; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 13–49; DA 13–1388]

Unlicensed National Information Infrastructure (U–NII) Devices in the 5 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the deadline for filing reply comments to the Notice of Proposed Rule Making (NPRM), released February 20, 2013. It

is granted in response to requests to extend the reply comment period submitted by IEEE 802 and W-Fi Alliance. We find that good cause exist for an extension of the reply comment deadline to facilitate the development of a full and complete record.

DATES: Reply comments must be filed on or before July 24, 2013.

FOR FURTHER INFORMATION CONTACT: Aole Wilkins, Office of Engineering and Technology, (202) 418–2406, email: *Aole.Wilkins@fcc.gov,* TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* ET Docket No. 13–49; DA 13–1388, adopted June 17, 2013, and released June 17, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

Summary of Order Granting Extension of Time for Filing Comment

1. On April 10, 2013, the **Federal Register** published the Commission's *Notice of Proposed Rulemaking* (''*NPRM*''), 78 FR 21320, April 10, 2013, in the above-captioned proceeding. That *NPRM* established a comment deadline of May 28, 2013 and a reply comment deadline of June 24, 2013. On June 4, 2013, IEEE 802 requested that the reply comment deadline be extended by 30 days because in reviewing the comments to date, they are concerned that there is insufficient time allocated to thoroughly review the record and provide reply comments by the current deadline. On June 6, 2013, the Wi-Fi Alliance also requested a 30 day extension of the reply comment date because it will allow interested parties the necessary time to adequately address the technical and policy questions raised in the NPRM and by numerous commenters in this proceeding. The Wi-Fi Alliance points out that the current reply comment filing deadline falls before both the 2013 Wi-Fi Alliance Member Meeting and IEEE 802's Plenary Session, and that the parties' reply comments will be better informed by the discussion of the issues raised in the NPRM and other parties' comments in their upcoming meetings.

2. As set forth in section 1.46(a) of the Commission's Rules, the Commission's policy is that extensions of time shall not be routinely granted. Given the importance of the issues in this proceeding, however, we find that good cause exists to provide all parties an extension of the reply comment deadline to facilitate the development of a full and complete record.

3. *It is further ordered* that the Motions for Extension of Time filed by IEEE 802 and Wi-Fi Alliance *are granted.*

4. This action is taken pursuant to Section 4(i), 4(j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(c) and Sections 0.31, 0.241, and 1.46 of the Commission's rules, 47 CFR 0.31, 0.241, and 1.46, the deadline for filing reply comments in response to the Notice of Proposed Rulemaking in ET Docket No. 13–49 *is extended* to July 24, 2013.

Federal Communications Commission.

Bruce Romano,

Associate Chief, Office of Engineering and Technology.

[FR Doc. 2013–14760 Filed 6–20–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130326296–3552–01]

RIN 0648–BD10

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Abbreviated Framework

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in an abbreviated framework to the Fishery Management Plans (FMPs) for the Reef Fish Resources of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council (Gulf Council), and Coastal Migratory Pelagic Resource prepared by the Gulf Council and the South Atlantic Fishery Management Council (South Atlantic Council). If implemented, this rule would eliminate the requirement to submit a current certificate of inspection (COI) provided by the U.S. Coast Guard (USCG) with the application to renew or transfer a Federal Gulf of Mexico (Gulf) coastal migratory pelagic (CMP) or reef fish charter vessel/headboat permit (hereafter referred to as a for-hire permit). The rule would eliminate the restriction on transferring for-hire permits to a vessel of greater authorized passenger capacity than specified on the permit. The rule would also prohibit the harvest or possession of CMP or reef fish species on a vessel with a Gulf for-hire permit that is carrying more passengers than is specified on the permit. The intended effect of this proposed rule is to simplify the passenger capacity requirements for transfers and renewals of Gulf CMP and reef fish for-hire permits to provide more flexibility in the use of these permitted vessels.

DATES: Written comments must be received on or before July 8, 2013.

ADDRESSES: You may submit comments on this document, identified by ''NOAA-NMFS-2013-0065'', by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA–NMFS–2013–0065,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the abbreviated framework, which includes a regulatory impact review, a Regulatory Flexibility Act analysis, and a social impact assessment, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be

submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and the Office of Management and Budget (OMB), by email at *OIRA Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, telephone 727–824–5305, email *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish and CMP fisheries are managed under their respective FMPs. The Gulf reef fish FMP was prepared by the Gulf Council and the CMP FMP was prepared by the Gulf and South Atlantic Councils and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, optimum yield (OY) from federally managed fish stocks. To reduce the risk of overfishing, permit moratoria were placed on Gulf CMP and reef fish for-hire permits to cap fishing effort. The purpose of this action is to simplify the passenger capacity requirements for transfers and renewals of Gulf CMP and reef fish for-hire permits to provide more flexibility in the use of these permitted vessels.

In 2003, moratoria were established for for-hire permits for the Gulf CMP and reef fish fisheries through Amendments 14 and 20 to the respective FMPs (68 FR 26230, May 15, 2003). The intended effect of these moratoria was to cap the effort and passenger capacity of Gulf for-hire vessels operating in these fisheries at the level documented in March 2001, while the Council evaluated whether limited access programs were needed to permanently constrain effort. These moratoria were extended indefinitely in June 2006, through Amendments 17 and 25 to the respective FMPs (71 FR 28282, May 16, 2006) and created the current limited access system for this sector.

Regulations implementing the moratoria on Gulf for-hire permits limit permit transfers and renewals to vessels that have the same passenger capacity or a lower passenger capacity to limit overall fishing effort. Because passenger capacity is currently based on the USCG COI, this limits the ability of the owner of a permitted vessel to transfer the Gulf for-hire permit to a vessel that has a higher passenger capacity listed on the COI or to renew the permit under the higher passenger capacity listed on the COI. Under such scenarios, the only way to renew or transfer a permit is to have the USCG adjust the COI so that it is less than or equal to the passenger capacity identified on the Gulf for-hire permit, which was based on the COI of the vessel when the moratorium Gulf for-hire permit was first issued, even though a vessel could safely carry more passengers, or subsequently has had the COI revised to carry more passengers.

This proposed rule would eliminate the requirement to submit a current USCG COI with the application to renew or transfer a Gulf for-hire permit, eliminate the restriction on transfer, and implement a provision that would prohibit the harvest or possession of reef fish or CMP species on vessels with a Gulf for-hire permit that is carrying more passengers than is specified on the Gulf for-hire permit. Because the passenger capacity for the Gulf for-hire vessel when fishing would be based on the COI of the vessel when the moratorium Gulf for-hire permit was first issued, the cap on fishing effort, which was the original purpose of the moratorium permits, would be maintained. As a result of this action, the requirements to renew or transfer a for-hire permit would be simplified, for-hire effort control in the reef fish and CMP fisheries would be maintained, and vessel owners would be allowed to carry more passengers for non-fishing activities if their COI is greater than the passenger capacity on their fore-hire permit.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator, NMFS, has determined that this proposed rule is consistent with the abbreviated framework, the FMP, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to eliminate the requirement to use the passenger capacity listed on the USCG COI in the renewal or transfer of Federal Gulf for-hire permits and instead, implement the requirement to use the passenger capacity listed on the Gulf for-hire permit. This would be expected to increase the profits of affected Gulf for-hire businesses while continuing to prevent overfishing and achieving the OY of the species harvested by these businesses. The Magnuson-Stevens Act provides the statutory basis for this proposed action. No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not introduce any changes to current reporting, record-keeping, or other compliance requirements, except as discussed below with respect to passenger capacity fishing restrictions.

This proposed rule would be expected to affect all for-hire vessels with a Gulf for-hire permit. A Gulf for-hire permit is required for for-hire vessels to harvest reef fish or CMP species in the Gulf exclusive economic zone (EEZ). On March 1, 2013, 1,348 vessels had a valid (non-expired) or renewable reef fish for-hire permit and 1,377 vessels had a valid or renewable CMP for-hire permit. An expired permit is renewable for one year after expiration. Many Gulf for-hire vessels have both the reef fish and CMP charter for-hire permits and 1,440 unique vessels had one (either a reef fish or CMP permit) or both for-hire permits. The Gulf for-hire fleet is comprised of charter vessels, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Among the 1,440 vessels with at least one Gulf for-hire permit, 80 are believed to primarily operate as headboats and 1,360 primarily operate as charter vessels.

This proposed rule would also affect Gulf for-hire vessels that do not have a Gulf for-hire permit that attempt to purchase and receive through transfer a Gulf for-hire permit from a permitted vessel. The number of Gulf for-hire vessels that do not have a Gulf for-hire permit and may wish to acquire one through transfer is unknown.

The average charter vessel is estimated to earn approximately $81,700 (2012 dollars) and the average headboat is estimated to earn approximately $247,000. These estimates apply to vessels with and without a Gulf for-hire permit.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule.

The Small Business Administration has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its

affiliates), and has combined annual receipts not in excess of $7.0 million (NAICS code 713990, recreational industries) for all its affiliated operations worldwide. All for-hire vessels expected to be directly affected by this proposed rule are believed to be small business entities.

The proposed elimination of the use of the passenger capacity specified on the USCG COI during the transfer or renewal process for Federal Gulf for-hire permits would be expected to allow Gulf for-hire permit transfers and renewals to occur in a timelier and more efficient manner, result in less disruption in vessel operation, and result in increased revenue to affected entities. Vessels with a higher passenger capacity on their COI than on their Gulf for-hire permit, in the case of permit renewals, or on the Gulf for-hire permit they are attempting to acquire through transfer, would not be required to obtain a new COI with an adjusted (lower) passenger capacity to match the passenger capacity listed on the Gulf for-hire permit. As a result, these vessels would not have to incur the costs associated with re-inspection or reduced revenue associated with operational delay re-inspection may precipitate. Vessels that provide non-fishing for-hire services could carry more passengers, subject to the passenger capacity specified by their COI, than when fishing and not be limited to the lower passenger capacity specified on their Gulf for-hire permit. As a result, revenue from these services (non-fishing for-hire) could be increased. Available data, however, are insufficient to quantify these potential increases.

The proposed prohibition on the harvest or possession of reef fish and CMP species on vessels with a Gulf for-hire permit that is carrying more passengers than is specified on the Gulf for-hire permit would be expected to reduce revenue for vessels that may previously have carried more passengers than specified on their Gulf for-hire permit, though few vessels are expected to have engaged in this practice. Current regulation, although intended to limit effort per vessel to the number of passengers on the original moratorium permit, only places passenger restrictions on the renewal or transfer of for-hire permits; no passenger restrictions are placed on the vessel when engaged in fishing. In theory, the restrictions placed on permit renewal or transfer should have, were intended to, and likely did, result in vessels with consistent (equal) passenger limits specified on both the Gulf for-hire permit and the COI. In practice, however, it has been possible for the passenger limits on the two documents to be unequal and, as a result, allow a vessel to carry more passengers when fishing than the limit specified on the Gulf for-hire permit. This could occur if, for example, a vessel renewed the Gulf for-hire permit, or received one through transfer, was re-inspected by the USCG, and received a COI with a higher maximum passenger limit than specified on the Gulf for-hire permit. If inspected at sea, the vessel would not violate passenger restrictions as long as the number of passengers was less than or equal to the safe limit specified on the COI even if carrying more passengers than specified on the Gulf for-hire permit. As a result, the vessel could carry more passengers while fishing than specified on the Gulf for-hire permit and benefit, financially, from the higher passenger load. This would be a temporary advantage to the vessel, however, the permit could not be renewed (or transferred) with a COI with a higher passenger limit than specified on the Gulf for-hire permit. Thus, to continue to carry more passengers than specified on the Gulf for-hire permit when fishing, a new COI would have to be obtained specifying the lower limit prior to permit renewal and, upon renewal, re-inspection would need to occur to ''recover'' the higher limit. Such behavior would not be expected to be common or frequent. Although the fee for inspection may not be onerous, $300 for a vessel less than 65 ft (20 m) in length, relative to the potential increase in revenue associated with carrying more passengers, justifying to the USCG the need for doubling of the number of inspections as a strategic move may be difficult. Additionally, the ability to carry more passengers under a situation like this has likely been a regulatory loophole that few, if any, vessel owners are expected to have identified in the past, or would recognize in the future, and taken advantage of even temporarily. As a result, although the proposed prohibition would prevent behavior previously allowed, little to no change in economic benefits would be expected because the behavior that would be prohibited is not believed to have occurred in the past or be expected to occur in the future in the absence of this proposed prohibition.

Few vessels have encountered a problem associated with Gulf for-hire permit renewal or transfer due to passenger capacity issues in recent years, with only an estimated seven denials (renewal or transfer) occurring from 2011 through the time of this analysis. Thus, only a small portion of the Gulf for-hire fleet has been directly affected by current regulations. However, with declining seasons for some key species, notably red snapper, the decline in the general national economy and slow pace of economic recovery, service diversification may become increasingly important to help Gulf for-hire businesses remain economically viable. Thus, for some individual small businesses, the economic effects of this proposed rule could be significant. However, overall, because few vessels have encountered a problem with conflicting passenger capacities on their Gulf for-hire permit and COI at either the permit renewal or transfer stage, only a small portion of the Gulf for-hire fleet would be expected to be directly affected by this proposed action.

In summary, the proposed rule, if implemented, would not be expected to have a significant impact on a substantial number of small entities and, as a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid OMB control number.

This proposed rule contains collection-of-information requirements subject to the PRA. NMFS is revising the collection-of-information requirements under OMB control number 0648–0205. NMFS estimates eliminating the requirement for Gulf for-hire permit holders to submit a current COI to renew or transfer a Gulf reef fish or CMP for-hire permit would decrease the overall reporting burden under OMB control number 0648–0205. The requirement to submit a current COI would be removed from the instructions on the Federal Permit Application for Vessels Fishing in the EEZ and a COI would not need to be submitted with the application to renew or transfer a permit. NMFS estimates these requirements would decrease the reporting burden for Gulf for-hire permit holders who are renewing or transferring a Gulf for-hire permit on average by 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding:

Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Certificate of inspection, Fisheries, Fishing, For-Hire, Gulf, Reporting and recordkeeping requirements.

Dated: June 18, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.13, paragraph (g) is added to read as follows:

§ 622.13 Prohibitions—general.

* * * * *

(g) Fail to comply with the passenger capacity related requirements in §§ 622.20(b)(1) and 622.373(b)(1).

■ 3. In § 622.20, paragraphs (b)(1)(i)(A) and (B) are revised and paragraph (b)(1)(iv) is added to read as follows:

§ 622.20 Permits and endorsements.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel.

(B) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain and is not otherwise transferable.

* * * * *

(iv) *Passenger capacity compliance requirement.* A vessel operating as a charter vessel or headboat with a valid charter vessel/headboat permit for Gulf reef fish, which is carrying more passengers on board the vessel than is specified on the permit, is prohibited from harvesting or possessing the species identified on the permit.

* * * * *

■ 4. In § 622.373, paragraphs (b)(1) and (2) are revised and paragraph (e) is added to read as follows:

§ 622.373 Limited access system for charter vessel/headboat permits for Gulf coastal migratory pelagic fish.

* * * * *

(b) * * *

(1) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel.

(2) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain and is not otherwise transferable.

* * * * *

(e) *Passenger capacity compliance requirement.* A vessel operating as a charter vessel or headboat with a valid charter vessel/headboat permit for Gulf coastal migratory pelagic fish, which is carrying more passengers on board the vessel than is specified on the permit, is prohibited from harvesting or possessing the species identified on the permit.

[FR Doc. 2013–14907 Filed 6–20–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 78, No. 120
Friday, June 21, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LPS–13–0029]

Notice of Request for Extension and Revision of a Currently Approved Information Collection for Voluntary Grading of Poultry Products and Rabbit Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection in support of the Regulations for Voluntary Grading of Poultry Products and Rabbit Products—7 CFR Part 70.

DATES: Comments on this notice must be received by August 20, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this information collection notice. Comments should be submitted online at *www.regulations.gov* or sent to Michelle Degenhart, Assistant to the Director, Poultry Grading Division, Livestock, Poultry and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 3842–S, Washington, DC 20250–0256, or by facsimile to (202) 690–2746. All comments should reference the docket number (AMS–LPS–13–0029), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michelle Degenhart at the above physical address, or by email at *Michelle.Degenhart@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations for Voluntary Grading of Poultry Products and Rabbit Products—7 CFR Part 70.

OMB Number: 0581–0127.

Expiration Date of Approval: December 31, 2013.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621 et seq.) directs and authorizes the United States Department of Agriculture (USDA) to develop standards of quality, grades, grading programs, and services which facilitate trading of agricultural products, assure consumers of quality products that are graded and identified under USDA programs. To provide programs and services, section 203(h) of the AMA (7 U.S.C.1622(h)) directs and authorizes the Secretary of Agriculture to inspect, certify, and identify the grade, class, quality, quantity, and condition of agricultural products under such rules and regulations as the Secretary may prescribe, including assessment and collection of fees for the cost of service. The regulations in 7 CFR Part 70 provides a voluntary program for grading poultry and rabbit products on the basis of U.S. standards and grades. AMS also provides other types of voluntary services under the regulations, e.g., contract and specification acceptance services and certification of quantity. All of the voluntary grading services are available on a resident basis or lot-fee basis. Respondents may request resident service on a continuous or temporary basis. The service is paid for by the user (user-fee). Because this is a voluntary program, respondents need to request or apply for the specific service they wish, and in doing so, they provide information. Since the AMA requires that the cost of service be assessed and collected, information is collected to establish the Agency's cost. The information collection requirements in this request are essential to carry out the intent of the AMA, to provide the respondents the type of service they request, and to administer the program. The information collected is used only by authorized representatives of the USDA (AMS, Livestock, Poultry and Seed Program's national staff; regional directors and their staffs; Federal-State supervisors and their staffs; and resident Federal-State graders, which includes State agencies). The information is used to administer and conduct grading services requested by respondents. The Agency is the primary user of the information. Information is also used by each authorized State agency that has a cooperative agreement with AMS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.0833 hours per response.

Respondents: State or local governments, businesses or other for profits, Federal agencies or employees, and small businesses or organizations.

Estimated Number of Respondents: 690 respondents.

Estimated Total Annual Responses: 24,053.50 responses.

Estimated Number of Responses per Respondent: 34.86 responses per respondent.

Estimated Total Annual Burden on Respondents: 2,004 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: June 14, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–14722 Filed 6–20–13; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0002]

International Standard-Setting Activities

AGENCY: Office of Food Safety, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Public Law 103–465, 108 Stat. 4809. This notice also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 2012, to May 31, 2013, and June 1, 2013, to May 31, 2014, seeks comments on standards under consideration and recommendations for new standards.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to U.S. Department of Agriculture (USDA), FSIS, OPPD, RIMS, Docket Clearance Unit, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163B, Washington, DC 20024–3221.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2013–0002. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza, 355 E Street SW., Room 8–164, Washington, DC 20024–3221 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee.

FOR FURTHER INFORMATION CONTACT: Mary Frances Lowe, United States Manager for Codex, U.S. Department of Agriculture, Office of Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700; Telephone: (202) 205–7760; Fax: (202) 720–3157; Email: *USCodex@fsis.usda.gov.*

For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in Attachment 2 of this notice.) Documents pertaining to Codex and specific committee agendas are accessible via the World Wide Web at *http://www.codexalimentarius.org/meetings-reports/en/.* The U.S. Codex Office also maintains a Web site at *http://www.fsis.usda.gov/Regulations_&_Policies/Codex_Alimentarius/index.asp.*

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be ''responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization.'' The main organizations are Codex, the World Organisation for Animal Health, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Office of Food Safety the responsibility to inform the public of the SPS standard-setting activities of Codex. The Office of Food Safety has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office.

Codex was created in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for establishing standards for food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of food standards work undertaken by international governmental and nongovernmental organizations. In the United States, U.S. Codex activities are managed and carried out by the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); and the Environmental Protection Agency (EPA).

As the agency responsible for informing the public of the SPS standard-setting activities of Codex, the Office of Food Safety publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The SPS standards under consideration or planned for consideration; and

2. For each SPS standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To Obtain Copies of the Standards Listed In Attachment 1, Please Contact

the Codex Delegate or the U.S. Codex Office.

This notice also solicits public comment on standards that are currently under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States delegation activities to interested parties. This information will include the status of each agenda item; the United States Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its Web page, *http://www.fsis.usda.gov/Regulations_&_Policies/Codex_Alimentarius/index.asp.* If you would like to access or receive information about specific committees, please visit the Web page or notify the appropriate U.S. delegate or the U.S. Codex Office, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700 (*uscodex@fsis.usda.gov*).

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 2012, to May 31, 2013, and June 1, 2013, to May 31, 2014. Attachment 2 provides a list of U.S. Codex Officials (including U.S. delegates and alternate delegates). A list of forthcoming Codex sessions may be found at: *http://www.codexalimentarius.org/meetings-reports/en/.*

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on June 17, 2013.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

Attachment 1

Sanitary and Phytosanitary Activities of Codex

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission will hold its Thirty Sixth Session July 1–5, 2013, in Rome, Italy. At that time, it will consider standards, codes of practice, and related matters forwarded to the Commission by the general subject committees, commodity committees, and *ad hoc* Task Forces for adoption as Codex standards and guidance. The Commission will also consider the implementation status of the Codex Strategic Plan, the management of the Trust Fund for the Participation of Developing Countries and Countries in Transition in the Work of the Codex Alimentarius, as well as financial and budgetary issues.

Prior to the Commission meeting, the Executive Committee will meet at its Sixty-eighth Session on June 25–28, 2013. It is composed of the chairperson; vice-chairpersons; seven members elected from the Commission from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific; and regional coordinators from the six regional committees. The United States is the elected representative from North America. The Executive Committee will conduct a critical review of the elaboration of Codex standards; consider applications from international non-governmental organizations for observer status in Codex; consider the Codex Strategic Plan and the capacity of the Secretariat; review matters arising from reports of Codex Committees and proposals for new work; and review the Food and Agriculture Organization and the World Health Organisation (FAO/WHO) Trust Fund for Enhanced Participation in Codex.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. The Committee also develops codes of practice, as may be required, and considers methods of sampling and analysis for the determination of veterinary drug residues in food. A veterinary drug is defined as any substance applied or administered to any food producing animal, such as meat or milk producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes, or for modification of physiological functions or behavior.

A Codex Maximum Residue Limit (MRL) for Residues of Veterinary Drugs is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food. Residues of a veterinary drug include the parent compounds or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned. An MRL is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI) or on the basis of a temporary ADI that utilizes an additional safety factor. The MRL also takes into account other relative public health risks as well as food technological aspects.

When establishing an MRL, consideration is also given to residues that occur in food of plant origin or the environment. Furthermore, the MRL may be reduced to be consistent with official recommended or authorized usage, approved by national authorities,

of the veterinary drugs under practical conditions.

An Acceptable Daily Intake (ADI) is an estimate made by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, which can be ingested daily in food over a lifetime without appreciable health risk.

The Committee will hold its 21st Session in Minneapolis, Minnesota, on August 26–30, 2013. The Committee will work on the following items:

- Matters referred by the Codex Alimentarius Commission and other Codex Committees and Task Forces
- Matters arising from FAO/WHO and from the Joint FAO/WHO Expert Committee on Food Additives (JECFA)
- Report of the OIE activities, including the harmonization of technical requirements for registration of veterinary medicinal products
- Draft MRLs for Veterinary Drugs (at Step 6)
- Proposed draft MRLs for Veterinary Drugs (at Step 4)
- Risk Management Recommendations for Residues of Veterinary Drugs for which no ADI or MRL has been Recommended by JECFA due to Specific Human Health Concerns
- Proposed draft *Guidelines on Performance*

Characteristics for Multi-Residue Methods

- Risk Analysis Policy on Extrapolation of MRLs of Veterinary Drugs to Additional Species and Tissues
- Proposed ''concern form'' for the CCRVDF (format and policy procedure for its use)
- Draft Priority List of Veterinary Drugs Requiring Evaluation or Re-evaluation by JECFA
- Database on countries needs for MRLs
- Discussion paper on *Guidelines on the Establishment of MRLs or Other Limits in Honey*

Responsible Agencies: HHS/FDA/CVM; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Contaminants in Foods

The Codex Committee on Contaminants in Foods (CCCF) establishes or endorses permitted maximum levels (ML) and, where necessary, revises existing guidelines levels for contaminants and naturally occurring toxicants in food and feed; prepares priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives; considers and elaborates methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed; considers and elaborates standards or codes of practice for related subjects; and considers other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed.

The Committee held its Seventh Session in Moscow, Russian Federation, from April 8–12, 2013. The relevant document is REP13/CF. The following items are to be considered for adoption by the 36th Session of the Commission in July 2013:

- Maximum Levels for Hydrocyanic Acid for Cassava Flour and Gari (transfer from commodity standards to the *General Standard for Contaminants & Toxins in Food and Feed*) and consequential amendments to the *Standards for Edible Cassava Flour, Gari and Sweet Cassava*

To be considered at Step 5/8:

- Proposed draft Maximum Levels for Lead in Fruit Juices and Nectars, Ready to Drink; Canned Fruits and Canned Vegetables
- Proposed draft Maximum Levels for Deoxynivalenol (DON) in Cereal-Based Foods for Infants and Young Children
- Proposed draft *Code of Practice for the Prevention and Reduction of Ochratoxin A Contamination in Cocoa*
- Proposed draft *Code of Practice to Reduce the Presence of Hydrocyanic Acid in Cassava and Cassava Products*

To be considered at Step 5:

- Proposed draft Maximum Levels for DON in Raw Cereal Grains (Wheat, Maize and Barley), including Sampling Plans, and in Flour, Semolina, Meal and Flakes Derived from Wheat, Maize or Barley

The Committee will continue working on:

- Proposed draft *Annex for the Prevention and Reduction of Aflatoxins and Ochratoxin A Contamination in Sorghum* (*Code of Practice for the Prevention and Reduction of Mycotoxin Contamination in Cereals*)
- Proposed draft *Code of Practice for Weed Control to Prevent and Reduce Pyrrolizidine Alkaloid Contamination in Food and Feed*
- Proposed draft Maximum Levels for Arsenic in Rice and Rice Products
- Proposed draft Maximum Levels for Fumonisins in Maize and Maize Products and Associated Sampling Plans
- Proposed draft revision of the Maximum Levels for Lead in Fruits, Milk Products, and Infant Formula, Follow-up Formula and Formula for Special Medical Purposes for Infants in the *General Standard for Contaminants and Toxins in Food and Feed*
- Editorial amendments to the General *Standard for Contaminants and Toxins in Food and Feed*
- Discussion paper on the possibility of developing a code of practice for the prevention and reduction of arsenic contamination in rice
- Discussion paper on control measures for fumonisins in maize and maize products
- Discussion paper on the review of guideline levels for methylmecury in fish
- Discussion paper on the review of the *Code of Practice for the Prevention and Reduction of Mycotoxin Contamination in Cereals*
- Discussion paper on aflatoxins in cereals
- Discussion paper on the establishment of maximum levels for total aflatoxins in ready to eat peanuts and associated sampling plan
- Priority List of Contaminants and Naturally Occurring Toxicants Proposed for Evaluation by JECFA

The Committee will discontinue work on:

- Establishment of Maximum Levels for Hydrocyanic Acid for Cassava and Cassava Products
- Revision of guideline levels for radionuclides in foods in the *General Standard for Contaminants and Toxins in Food and Feed (GSCTFF)*

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Additives

The Codex Committee on Food Additives (CCFA) establishes or endorses acceptable maximum levels (MLs) for individual food additives; prepares a priority list of food additives for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); assigns functional classes to individual food additives; recommends specifications of identity and purity for food additives for adoption by the Codex Alimentarius Commission; considers methods of analysis for the determination of additives in food; and considers and elaborates standards or codes of practice for related subjects such as the labeling of food additives when sold as such.

The 45th Session of the Committee met in Beijing, China, March 18–22, 2013. The relevant document is REP13/FA. Immediately prior to the Plenary Session, there was a 2-day physical Working Group on the *General Standard for Food Additives* (GSFA) chaired by the United States.

The following items will be considered by the 36th Session of the Commission in July 2013. To be considered for adoption at Steps 8 & 5/8:

- Specific draft and proposed draft food additive provisions of the GSFA

To be considered for adoption at Step 5/8:

- Proposed draft amendments to the *Codex Guideline on Class Names and International Numbering System (INS) for Food Additives* (CAC/GL 36–1989)
- Specifications for the identity and purity of food additives arising from the 76th JECFA meeting

The Committee will continue working on:

- Amendments to the INS for food additives
- Specifications for the identity and purity of food additives
- Proposals for the provisions in Table 1 and 2 of the GSFA for: (i) Food additives listed in Table 3 with the function of ''acidity regulator'' for their use for technological functions other than as acidity regulators; (ii) other food additives listed in Table 3 with technological functions other than ''emulsifier, thickener, stabilizer,'' ''color,'' and ''sweetener''; and (iii) for food additives listed in Table 3 with the technological function of ''emulsifier, stabilizer and thickener'' in selected food categories (i.e., 06.2 to 14.1.5, 04.1.1.2 and 04.2.1.2)
- Prioritization exercise of compounds proposed for re-evaluation by JECFA
- Proposal for additions and changes to the Priority List of Compounds Proposed for Evaluation by JECFA
- Information document on the GSFA
- Information document on food additive provisions in commodity standards

The Committee recommended the following Electronic Working Groups, with the named lead countries:

- Revision of the *Guidelines for the Simple Evaluation of Food Additive Intakes* (CAC/GL 3–1989) (Brazil)
- Options for the use of the prioritization exercise of compounds for re-evaluation by JECFA (Canada)
- Amendments to the INS (Iran)
- Food additive provisions of food category 14.2.3 (Grape wines) and its sub-categories (France)
- Descriptors and food additive provisions of food categories 01.1.1 (Milk and buttermilk (plain)), 01.1.1.1 (Milk (plain)), 01.1.1.2 (Buttermilk (plain)), and 01.1.2 (Dairy based drinks, flavoured and/or fermented (e.g., chocolate milk, cocoa, eggnog, drinking yoghurt, whey based drink) (New Zealand)
- Alignment of the food additive provisions of commodity standards and relevant provisions of the GSFA (Australia)
- The GSFA (United States), including:
  - Recommendations for the entry of proposals for new food additive provisions in food category 16.0 (Prepared foods) into the GSFA
  - Recommendations for the new entry and revision of existing provisions in CX/FA 13/45/12 (except those for food category 14.2.3 (Grape wines) and its sub-categories, and those for aspartame (INS 951) and aspartame-acesulfame (INS 962) in the GSFA
  - Proposals for the provisions in Tables 1 and 2 of the GSFA for food additives listed in Table 3 with the function of ''acidity regulator'' for their use for technological functions other than as acidity regulators
  - Proposals for consideration of the provisions in Tables 1 and 2 of the GSFA for food additives listed in Table 3 with functions other than ''emulsifier, stabilizer, sweetener,'' ''color,'' and ''sweetener''
- The use of Note 161 (''Subject to national legislation of the importing country aimed, in particular, at consistency with Section 3.2 of the Preamble.'') in provisions for selected sweeteners (United Kingdom)
- The Committee will also prepare a discussion paper on the use of additives in additives (European Union).

The Committee also agreed to hold a physical Working Group on the GSFA immediately preceding the 46th session of CCFA to be chaired by the United States that will discuss: (i) The recommendations of the electronic Working Groups on the GSFA, the food additive provisions in food category 14.2.3 (Grape wines), and on Note 161 of the GSFA; and (ii) the proposals for provisions in Table 1 and 2 of the GSFA for certain food additives listed in Table 3.

The Committee recommended the work on the following items be postponed:

- Proposals for provisions in nisin (INS 234) in food category 08.0 (Meat and meat products, including poultry and game) and its sub-categories
- Proposals for new provisions and/or revision of provisions for acesulfame potassium (INS 950), aspartame (INS 951), and aspartame-acesulfame salt (INS 962) contained in the compilation document (CRD 2, Appendix VIII), other than in the context as an example for the work of the electronic Working Group on Note 161 of the GSFA

The Committee recommended the work on the following items be revoked:

- Provisions for aluminum-containing food additives in certain commodity standards
- Specifications for mineral oil, medium and low viscosity (INS 905e, f, g)

The Committee recommended the work on the following items be discontinued:

- Draft and proposed draft provisions for certain food additives in the GSFA

Responsible Agency: HHS/FDA.
U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues (CCPR) is responsible for establishing maximum limits for pesticide residues in specific food items or in groups of food; establishing maximum limits for pesticide residues in certain animal feeding stuffs moving in international trade where this is justified for reasons of protection of human health; preparing priority lists of pesticides for evaluation by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR); considering methods of sampling and analysis for the determination of pesticide residues in food and feed; considering other matters in relation to the safety of food and feed containing pesticide residues and; establishing maximum limits for environmental and industrial contaminants showing chemical or other similarity to pesticides in specific food items or groups of food.

The 45th Session of the Committee met in Beijing, China, on May 6–11, 2013. The relevant document is REP13/PR. The following items will be considered at the 36th Session of the Codex Alimentarius Commission in July 2013. To be considered at Steps 5 and 8:

- Draft and proposed draft Maximum Residue Limits for Pesticides in Foods and Feeds

The Committee will continue working on:

- Draft revision of the Classification of Foods and Animal Feeds: Selected vegetable commodity groups at Step 7
- Proposed draft revision of the Classification of Foods and Animal Feeds: Other selected vegetable commodity groups
- Proposed draft Table 2—Examples of selection of representative commodities for selected vegetable commodity groups (item 7a) and other selected commodity groups (Item 7b) (for inclusion in the *Principles and Guidance for the Selection of Representative Commodities for the Extrapolation of Maximum Residue Limits for Pesticides to Commodity Groups*)
- Discussion paper on *Guidance to Facilitate the Establishment of Maximum Residue Limits for Pesticides for Minor Crops/Specialty Crops*
- Revision of the Risk Analysis Principles applied by the Codex Committee on Pesticide Residues
- Establishment of the Codex Schedules and Priority Lists of Pesticides

The Committee has agreed to the following New Work:

- Discussion paper on performance criteria for suitability assessment of methods of analysis for pesticide residues

Responsible Agencies: EPA; USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling (CCMAS) defines the criteria appropriate to Codex Methods of Analysis and Sampling; serves as a coordinating body for Codex with other international groups working on methods of analysis and sampling and quality assurance systems for laboratories; specifies, on the basis of final recommendations submitted to it by the bodies referred to above, reference methods of analysis and sampling appropriate to Codex standards which are generally applicable to a number of foods; considers, amends if necessary, and endorses as appropriate, methods of analysis and sampling proposed by Codex commodity committees, except for methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives; elaborates sampling plans and procedures, as may be required; considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The 34th Session of the Committee met in Budapest, Hungary, from March 4–8, 2013. The relevant document is REP13/MAS. The following items will be considered by the Commission at its 36th Session in July 2013. To be considered for adoption at step 8:

- Methods of Analysis and Sampling in Codex Standards at Different Steps
- Draft *Principles for the Use of Sampling and Testing in International Food Trade: Other Standards and Related Texts*
- Proposed amendment to the *Guidelines for Establishing Numeric Values for Method Criteria and/or Assessing Methods for Compliance Thereof in the Procedural Manual*

The Committee will continue working on:

- Other Sections—Explanatory Notes for the proposed draft *Principles for the Use of Sampling and Testing in International Food Trade*
- Discussion paper on considering procedures for establishing criteria:
  - For multi-analyte methods that are used for specifications that require a combination of components or use toxicity equivalent factors
  - Applicable to Type I methods
  - Where there is considerable scientific or statistical overlap between (i) and (ii). These will be considered together
- Discussion paper on the *Elaboration of Procedures for Regular Updating of Methods*
- Discussion paper on *Sampling in Codex Standards*

Responsible Agencies: HHS/FDA; USDA/GIPSA.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems is responsible for developing principles and guidelines for food import and export inspection and certification systems, with a view to harmonizing methods and procedures that protect the health of consumers, ensure fair trading practices, and facilitate international trade in foodstuffs; developing principles and guidelines for the application of measures by the competent authorities of exporting and importing countries to provide assurance, where necessary, that foodstuffs comply with requirements, especially statutory health requirements; developing guidelines for the utilization, as and when appropriate, of quality assurance systems to ensure that foodstuffs conform with requirements and promote the recognition of these systems in facilitating trade in food products under bilateral/multilateral arrangements by countries; developing guidelines and criteria with respect to format, declarations, and language of such official certificates as countries may require with a view towards international harmonization; making recommendations for information exchange in relation to food import/export control; consulting as necessary with other international groups working on matters related to food inspection and certification systems; and considering other matters assigned to it by the Commission in relation to food inspection and certification systems.

The 20th Session of the Committee met in Chiang Mai, Thailand, February 18–22, 2013. The relevant document is REP13/FICS. The following items will be considered by the 36th Session of the Commission in July 2013. To be considered for adoption at Step 8:

- Draft amendments to *Guidelines for the Exchange of Information in Food Safety Emergency Situations*

To be considered for adoption at Step 8 & 5/8:

- Draft and proposed draft *Principles and Guidelines for National Food Control Systems* (Sections 1–3 at Step 6 and Section 4 at Step 3)

The Committee is continuing work on:

- Discussion paper on *Principles and Guidelines for the Elaboration and Management of Questionnaires Directed at Exporting Countries*
- Discussion paper on *Principles and Guidelines for Monitoring Regulatory Performance of National Food Control Systems*
- Discussion paper on the revision of the *Principles and Guidelines for the Exchange of Information in Food Safety Emergency Situations*
- Draft amendments to *Guidelines for the Exchange of Information between Countries on Rejections of Imported Food*

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling drafts provisions on labeling applicable to all foods; considers,

amends, and endorses draft specific provisions on labeling prepared by the Codex Committees drafting standards, codes of practice, and guidelines; and studies specific labeling problems assigned by the Codex Alimentarius Commission. The Committee also studies problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The Committee held its 41st Session in Charlottetown, Prince Edward Island, Canada, on May 14–17, 2013. The reference document is REP 13/FL. The following items will be considered at the 36th Session of the Codex Alimentarius Commission in July 2013. To be considered at Step 8:

Consideration of labelling provisions in draft Codex standards for the draft standard for:

- *Smoked Fish, Smoke-Flavoured Fish and Smoke-Dried Fish;*
- *Raw, Fresh and Quick Frozen Scallop Products;* and
- *Guidelines on Formulated Complementary Foods for Older Infants and Young Children*
- Implementation of the WHO Global Strategy on Diet, Physical Activity and Health
- *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods*

The Committee will continue working on:

- Organic Aquaculture

The Committee has agreed to the following New Work:

- *General Standard for the Labelling of Prepackaged Foods* to address the issue of date marking.

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene (CCFH):

- Develops basic provisions on food hygiene applicable to all food or to specific food types;
- Considers and amends or endorses provisions on food hygiene contained in Codex commodity standards and codes of practice developed by other Codex commodity committees;
- Considers specific food hygiene problems assigned to it by the Commission;
- Suggests and prioritizes areas where there is a need for microbiological risk assessment at the international level and develops questions to be addressed by the risk assessors; and
- Considers microbiological risk management matters in relation to food hygiene and in relation to FAO/WHO risk assessments.

The Committee held its 44th Session in New Orleans, Louisiana from November 12–16, 2012. The reference document is REP 13/FH. The following items will be considered by the Commission at its 36th Session in July 2013. To be considered for adoption at Step 5/8:

- Proposed draft *Principles and Guidelines for the Establishment and Application of Microbiological Criteria Related to Foods*
- Proposed draft *Annex on Berries to the Code of Hygienic Practice for Fresh Fruits and Vegetables*

The Committee agreed to request the Commission to approve new work on a *Code of Hygienic Practice for Low-Moisture Foods.*

The Committee will continue working on:

- Proposed draft *Guidelines for Control of Specific Zoonotic Parasites in Meat: Trichinella spp. and Cysticercus bovis*
- Proposed draft *Code of Hygienic Practice for Spices and Dried Aromatic Herbs*
- Criteria for evaluating and prioritizing new work, which will be used in the development of a ''forward workplan''

In addition, the Committee will consider the following:

- Discussion paper on occurrence and control of parasites
- Discussion paper on the need to revise the *Code of Hygienic Practice for Fresh Fruits and Vegetables*
- Proposals for new work
- Proposed draft *Code of Hygienic Practice for Low-Moisture Foods*

Responsible Agencies: HHS/FDA; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating worldwide standards and codes of practice as may be appropriate for fresh fruits and vegetables; for consulting with the UNECE Working Party on Agricultural Quality Standards in the elaboration of worldwide standards and codes of practice, with particular regard to ensuring that there is no duplication of standards or codes of practice and that they follow the same broad format; and for consulting, as necessary, with other international organizations which are active in the area of standardization of fresh fruits and vegetables.

The 17th Session of the Committee met in Mexico City, Mexico, September 3–7, 2012. The relevant document is REP13/FFV. The following items will be considered by the 36th Session of the Commission in July 2013. To be considered for adoption at Step 8:

- Draft *Standard for Avocado* (revision of Codex STAN 197–1995)
- Draft provisions for uniformity rules and other size related provisions (sections 5.1—uniformity and 6.2.4—commercial identification) (draft *Standard for Avocado*)
- Draft *Standard for Pomegranate*
- Proposed draft provisions for sizing and uniformity rules (sections 3 and 5.1) (draft *Standard for Pomegranate*)
- Proposed draft *Standard for Golden Passion Fruit*
- Proposed draft *Standard for Durian*
- Proposed draft *Standard for Okra*
- Proposed draft *Standard for Ware Potato*
- Proposals for new work on Codex standards for fresh fruits and vegetables
- Revision of the terms of reference of the *Codex Committee on Fresh Fruits and Vegetables*

Responsible Agencies: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) is responsible for studying nutrition issues referred to it by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses in cooperation with other committees where necessary; considers, amends if necessary, and endorses provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines, and related texts.

The Committee held its 34th Session in Bad Soden am Taunus, Germany, on December 3–7, 2012. The reference document is REP 13/NSFDU. The following items will be considered by the Commission at its 36th Session in July 2013. To be considered for adoption:

- Consolidation of the *General Principles for Establishing Nutrient Reference Values of Vitamins and Minerals* and *General Principles for Establishing Nutrient Reference Values for Nutrients Associated with Risk of Diet-Related Non-Communicable Diseases* (NRVs-NCD) (for labelling purposes)

To be considered for adoption at Step 8:

- Draft revision of the *Guidelines on Formulated Supplementary Foods for Older Infants and Young Children*
- Draft NRVs-NCD for saturated fatty acids and sodium

To be considered for adoption at Step 5/8:

- Proposed draft *General Principles for Establishing Nutrient Reference Values for Nutrients Associated with Risk of Diet-Related Non-Communicable Diseases for General Population* (NRVs-NCD)
- Proposed draft *Additional or Revised Nutrient Reference Values for Labeling Purposes in the Codex Guidelines on Nutrition Labeling* (Vitamin K, Thiamin, Riboflavin, Niacin, Vitamin B6, Folate, Vitamin B12, Pantothenate, Biotin, Calcium and Iodine, and related footnotes)

The Committee will continue working on:

- Proposed draft *Additional or Revised Nutrient Reference Values for Labelling Purposes in the Codex Guidelines on Nutrition Labelling* (Other values than described above, including protein)
- Proposed draft *Revision of the Codex General Principles for the Addition of Essential Nutrients to Foods*
- Proposed draft *Amendment of the Standard for Processed Cereal-Based Foods for Infants and Young Children to include a New Part B for Underweight Children*
- Proposal to review the *Codex Standard for Follow-up Formula*
- Discussion paper on a potential NRV for Potassium in relation to the risk of NCD
- Proposed draft revision of the List of Food Additives
- Discussion paper on biofortification

Responsible Agencies: HHS/FDA; USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils (CCFO) is responsible for elaborating worldwide standards for fats and oils of animal, vegetable, and marine origin, including margarine and olive oil.

The Committee held its 23rd Session in Langkawi, Malaysia, from February 25–March 1, 2013. The reference document is REP 13/FO. The following items will be considered by the Commission at its 36th Session in July 2013. To be considered for adoption:

- Amendments to the *Standard for Edible Fats and Oils Not Covered by Individual Standards* (Codex STAN 19–1981), the *Standard for Named Animal Fats* (CODEX STAN 211–1999), and the *Standard for Olive Oils and Olive Pomace Oils* (CODEX STAN 33–1981)
- Amendments to the lists of acceptable previous cargoes in the *Code of Practice for the Storage and Transport of Edible Fats and Oils in Bulk*

To be considered for adoption at step 5/8:

- Proposed draft amendment to parameters for rice bran oil in the *Standard for Named Vegetable Oils*

The Committee will continue working on:

- Proposed draft *Standard for Fish Oils*
- Review of the lists of acceptable previous cargoes in the *Code of Practice for the Storage and Transport of Edible Fats and Oils in Bulk*
- Discussion paper on the amendment of the *Standard for Named Vegetable Oils: Sunflower Seed Oils*
- Discussion paper on cold pressed oils
- Discussion paper on the amendment of the *Standard for Named Vegetable Oils: High Oleic Soybean Oil*
- Discussion paper on the amendment of the *Standard for Named Vegetable Oils: Palm Oil with High Oleic Acid OxG*

Responsible Agencies: HHS/FDA; USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables (CCPFV) is responsible for elaborating worldwide standards and related text for all types of processed fruits and vegetables including but not limited to canned, dried, and frozen products, as well as fruit and vegetable juices and nectars.

The 26th Session of the CCPFV met in Montego Bay, Jamaica, on October 15–19, 2012. The following items will be considered by the Commission at its 36th Session in July 2013. To be considered for adoption:

- Amendment to the *Guidelines for Packing Media for Canned Fruits*
- Amendment to the *Standards for Preserved Tomatoes, Processed Tomato Concentrates and Certain Canned Citrus Fruits* (section 4—Food additives)
- Amendment to the *Standard for Canned Applesauce* (Codex STAN 17–1981) (Section 9—Methods of Analysis)

To be considered for adoption at Step 5/8:

- Proposed draft *Standard for Table Olives* (revision of Codex Standard 66–1981)

To be considered for adoption at Step 5:

- Proposed draft *Standard for Certain Canned Fruits* (general provisions) and proposed draft *Annex on Mangoes*
- Proposed draft *Standard for Certain Quick Frozen Vegetables* (general provisions)

The Committee will continue working on:

- Proposed draft *Sampling Plan including Metrological Provisions for Controlling the Minimum Drained Weight in Canned Fruits and Vegetables in Packing Media*
- Proposed draft annexes on pears and pineapples (proposed draft *Standard for Certain Canned Fruits*)
- Proposed draft annexes on several quick frozen vegetables (proposed draft *Standard for Certain Quick Frozen Vegetables*)
- Proposal for the extension of the territorial application of the *Regional Standard for Ginseng Products*
- Food additive provisions in the *Standards for Pickled Fruits and Vegetables* (CODEX STAN 260–2007), *Canned Bamboo Shoots* (CODEX STAN 241–2003) and the *Annex on Mushrooms of the Standard for Certain Canned Vegetables* (CODEX STAN 297–2009)
- Packing Media provisions for pickled vegetables in the *Standard for Pickled Fruits and Vegetables* (CODEX STAN 260–2007)
- Status of work on the revision of *Codex Standards for Processed Fruits and Vegetables*

Responsible Agencies: USDA/AMS; HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Sugars

The Codex Committee on Sugars is responsible for elaborating worldwide standards for all types of sugar and sugar products. The Committee had been adjourned *sine die,* but became active again following the request from Colombia at the 34th Session of the Codex Alimentarius Commission (2011).

The Committee decided to work in electronic form, and established an electronic Working Group, led by Colombia. The Working Group is currently circulating the draft *Standard for Panela* for consensus. The Working Group hopes to send the *Standard for Panela* forward to the 36th Session of the Commission in July 2013 for adoption at Step 5/8.

Responsible Agencies: HHS/FDA.

U.S. Participation: Yes.

Certain Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned

sine die. The following Committees fall into this category:

- Cereals, Pulses and Legumes

  Responsible Agency: HHS/FDA.
  U.S. Participation: Yes.

- Cocoa Products and Chocolate

  Responsible Agency: HHS/FDA.
  U.S. Participation: Yes.

- Meat Hygiene

  Responsible Agency: USDA/FSIS.
  U.S. Participation: Yes.

- Milk and Milk Products

  Responsible Agencies: USDA/AMS; HHS/FDA.
  U.S. Participation: Yes.

- Natural Mineral Waters

  Responsible Agency: HHS/FDA.
  U.S. Participation: Yes.

- Vegetable Proteins

  Responsible Agency: USDA/ARS.
  U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Animal Feeding

The objective of the ad hoc Intergovernmental Task Force on Animal Feeding (TFAF) is to ensure the safety and quality of foods of animal origin. Therefore, the Task Force develops guidelines or standards, as appropriate, on Good Animal Feeding practices. The Task Force was re-activated in 2011 for the purpose of: (a) Developing guidelines, intended for governments, on how to apply the existing Codex risk assessment methodologies to the various types of hazards related to contaminants/residues in feed ingredients, such as feed additives used in feeding stuffs for food producing animals, and using specific science-based risk assessment criteria to apply to feed contaminants/residues; and (b) developing a prioritized list of hazards in feed ingredients and feed additives for governmental use.

The Committee held its 7th session in Berne, Switzerland, on February 4–8, 2013. The relevant document is REP 13/AF. The following items will be considered at the 36th session of the Codex Alimentarius Commission in July 2013. To be considered at Step 8:

- Draft *Guidelines on the Application of Risk Assessment for Feed*

  To be considered at Step 5/8:

- Proposed draft *Guidance for Use by Governments in Prioritizing the National Feed Hazards* (renamed *Guidance on Prioritizing Hazards in Feed*)

  Responsible Agencies: HHS/FDA; USDA/FSIS.
  U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The FAO/WHO Regional Coordinating Committees define the problems and needs of the regions concerning food standards and food control; promote within the Committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulate the strengthening of food control infrastructures; recommend to the Commission the development of worldwide standards for products of interest to the region, including products considered by the Committees to have an international market potential in the future; develop regional standards for food products moving exclusively or almost exclusively in intra-regional trade; draw the attention of the Commission to any aspects of the Commission's work of particular significance to the region; promote coordination of all regional food standards work undertaken by international governmental and non-governmental organizations within each region; exercise a general coordinating role for the region and such other functions as may be entrusted to it by the Commission; and promote the use of Codex standards and related texts by members.

There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North America and the Southwest Pacific

Coordinating Committee for Africa

The Committee (CCAfrica) held its 20th session in Cameroon, from January 29–February 1, 2013. The relevant document is REP13/Africa.

The Committee:

- Agreed to consider the need for development of a regional standard for processed cheese;
- Agreed that there is justification for the establishment of a new Codex Committee for Spices, Aromatic Plants and their Formulations; and
- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions.

Responsible Agency: USDA/FSIS.
U.S. Participation: Yes (as observer).

Coordinating Committee for Asia

The Committee (CCAsia) held its 18th session in Tokyo, Japan, from November 5–9, 2012. The relevant document is REP 13/ASIA. The following items will be considered by the Commission at its 36th Session in July 2013.

The Committee:

- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions.

To be considered for adoption:

- Amendments to some food additive provisions in the *Regional Standards for Fermented Soybean Paste and for Chili Sauce*

To be considered at Step 5/8:

- Proposed draft *Regional Standard for Tempe*

To be considered at Step 5:

- Proposed draft *Standard for Non-Fermented Soybean Products*

The Committee will continue working on:

- Proposed draft *Standard for Laver Products*
- Proposed draft *Code of Hygienic Practice for Street-Vended Foods*
- Discussion paper on *New Work on a Regional Standard for Edible Crickets on their Products*
- Preparation of the Strategic Plan for CCASIA 2015–2020

Responsible Agency: USDA/FSIS.
U.S. Participation: Yes (as observer).

Coordinating Committee for Europe

The Committee (CCEurope) held its 28th session in Batumi, Georgia, from September 25–28, 2012. The relevant document is REP 13/EURO. The following items will be considered by the Commission at its 36th Session in July 2013.

The Committee:

- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions

To be considered for adoption at Step 5/8:

- Proposed draft *Revised Regional Standard for Chanterelles*

The Committee will continue working on:

- Proposed draft *Regional Standard for Ayran*

Responsible Agency: USDA/FSIS.
U.S. Participation: No.

Coordinating Committee for Latin America and the Caribbean

The Coordinating Committee for Latin America and the Caribbean (CCLAC) held its 18th session in Costa Rica, from

November 19–23, 2012. The relevant document is REP 13/LAC. The following items will be considered by the Commission at its 36th Session in July 2013.

The Committee:

- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions

To be considered for adoption:

- Reappointment of Costa Rica for a second term as Coordinator for Latin America and the Caribbean (unanimous agreement to recommend)
- Proposal for new work on a Codex *Regional Standard for Yaćon*

Responsible Agency: USDA/FSIS.
U.S. Participation: Yes (as observer).

Coordinating Committee for the Near East

The Committee (CCNEA) held its 7th session in Beirut, Lebanon, from January 21–25, 2013. The relevant document is REP 13/NEA. The following items will be considered by the Commission at its 36th Session in July 2013.

The Committee:

- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions

To be considered at Step 8:

- *Regional Code of Practice for Street-Vended Foods*

To be considered at Step 5/8:

- *Regional Standard for Date Paste*

The Committee will continue working on:

- *Regional Standard for Doogh*
- *Standard for Halal Food*
- *Regional Standard for Labneh*
- *Regional Standard for Mixed Zaatar*
- *Standard for Refrigerated and Frozen Meat*
- Preparation of the Strategic Plan for CCNEA 2015–2020

Responsible Agency: USDA/FSIS.
U.S. Participation: No.

Coordinating Committee for North America and the Southwest Pacific (CCNASWP)

The Committee (CCNASWP) will hold its 12th Session in Madang, Papua New Guinea, from September 19–22, 2012. The relevant document is REP 13/NASWP. The following item will be considered by the Commission at its 36th Session in July 2013.

The Committee:

- Considered the Draft Strategic Plan 2014–2019 and made a number of comments and suggestions

The committee will continue working on:

- Draft Strategic Plan for the CCNASWP 2014–2019
- A revision to the discussion paper on the development of a regional standard for kava, focusing on the dried product that can be used as a beverage when mixed with water
- A new discussion paper to collect information identifying the products and the related food safety or trade issues that could be addressed by regional standards and to develop a mechanism for their prioritization

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Contact: U.S. Codex Office, United States Department of Agriculture, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *uscodex@fsis.usda.gov.*

Attachment 2

U.S. Codex Alimentarius Officials

Codex Chairpersons From the United States

Codex Committee on Food Hygiene

Emilio Esteban, DVM, MBA, MPVM, Ph.D., Executive Associate for Laboratory Services, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 950 College Station Road, Athens, GA 30605, Phone: (706) 546–3429, Fax: (706) 546–3428, Email: *emilio.esteban@fsis.usda.gov.*

Codex Committee on Processed Fruits and Vegetables

Richard Boyd, Head, Contract Services Section, Inspection Branch, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Mail Stop 0247, Room 0726—South Building, Washington, DC 20250, Phone: (202) 720–5021, Fax: (202) 690–1527, Email: *richard.boyd@ams.usda.gov.*

Codex Committee on Residues of Veterinary Drugs in Foods

Steven D. Vaughn, DVM, Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine, U.S. Food and Drug Administration, MPN 1, Room 236, 7520 Standish Place, Rockville, Maryland 20855, Phone: (240) 276–8300, Fax: (240) 276–8242, Email: *Steven.Vaughn@fda.hhs.gov.*

Listing of U.S. Delegates and Alternates

Worldwide General Subject Codex Committees

Codex Committee on Contaminants in Foods (Host Government—the Netherlands)

U.S. Delegate

Nega Beru, Ph.D., Director, Office of Food Safety (HFS–300), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1700, Fax: (301) 436–2651, Email: *Nega.Beru@fda.hhs.gov.*

Alternate Delegate

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Codex Committee on Food Additives (Host Government—China)

U.S. Delegate

Susan E. Carberry, Ph.D., Supervisory Chemist, Division of Petition Review, Office of Food Additive Safety (HFS–265), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1269, Fax: (301) 436–2972, Email: *Susan.Carberry@fda.hhs.gov.*

Alternate Delegate

Paul S. Honigfort, Ph.D., Consumer Safety Officer, Division of Food Contact Notifications (HFS–275), Office of Food Additive Safety, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1206, Fax: (301) 436–2965, Email: *paul.honigfort@fda.hhs.gov.*

Codex Committee on Food Hygiene (Host Government—United States)

U.S. Delegate

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Alternate Delegates

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Dr. Joyce Saltsman, Interdisciplinary Scientist, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (352) 391–5023, Email: *Joyce.Saltsman@fda.hhs.gov*.

Codex Committee on Food Import and Export Inspection and Certification Systems (Host Government—Australia)

U.S. Delegate

Mary Stanley, Director, International Policy Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2925, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 720–0287, Fax: (202) 720–4929, Email: *Mary.Stanley@fsis.usda.gov.*

Alternate Delegate

H. Michael Wehr, Senior Advisor and Codex Program Coordinator, International Affairs Staff, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway (HFS–550), College Park, MD 20740, Phone: (240) 402–1724, Fax: (301) 436–2618, Email: *Michael.wehr@fda.hhs.gov.*

Codex Committee on Food Labeling (Host Government—Canada)

U.S. Delegate

Felicia B. Billingslea, Director, Food Labeling and Standards Staff, Office of Nutrition, Labeling, and Dietary Supplements, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway (HFS–820), College Park, MD 20740, Phone: (240) 402–2371, Fax: (301) 436–2636, *felicia.billingslea@fda.hhs.gov.*

Alternate Delegate

Jeffrey Canavan, Deputy Director, Labeling and Program Delivery Division, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW.—Stop 5273, Patriots Plaza 3, 8th Floor–161A, Washington, DC 20250, Phone: (301) 504–0860, Fax: (202) 245–4792, Email: *jeff.canavan@fsis.usda.gov.*

Codex Committee on General Principles (Host Government—France)

U.S. Delegate

Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Methods of Analysis and Sampling (Host Government—Hungary)

U.S. Delegate

Gregory O. Noonan, Ph.D., Research Chemist, Division of Analytical Chemistry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: 240–402–2250, Fax: 301–436–2634, Email: *Gregory.Noonan@fda.hhs.gov.*

Alternate Delegate

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Codex Committee on Nutrition and Food for Special Dietary Uses (Host Government—Germany)

U.S. Delegate

Paula R. Trumbo, Ph.D., Director (A), Nutrition Programs, Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition, US Food and Drug Administration, 5100 Paint Branch Parkway HFS–830, College Park, MD 20740, Phone: (240) 402–2579, Fax: (301) 436–2579, Email: *Paula.Trumbo@fda.hhs.gov.*

Alternate Delegate

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Codex Committee on Pesticide Residues (Host Government—China)

U.S. Delegate

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Alternate Delegate

Dr. Pat Basu Senior Leader Chemistry, Toxicology & Related Sciences Office of Public Health Science Food Safety and Inspection Service, U.S. Department of Agriculture Patriots Plaza III, Room 9–205, 1400 Independence Ave. SW., Washington, DC 20250–3766, Phone: (202) 690–6558, Fax: (202) 690–2364, Email: *Pat.Basu@fsis.usda.gov*.

Codex Committee on Residues of Veterinary Drugs in Foods (Host Government—United States)

U.S. Delegate

Dr. Kevin Greenlees, Senior Advisor for Science & Policy, Office of New Animal Drug Evaluation, HFV–100, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7520 Standish Place, Rockville, MD 20855, Phone: (240) 276–8214, Fax: (240) 276–9538, Email: *Kevin.Greenlees@fda.hhs.gov*.

Alternate Delegate

Dr. Charles Pixley, DVM, Ph.D., Director, Laboratory Quality Assurance Division, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 950 College Station Road, Athens, GA 30605, Phone: (706) 546–3559, Fax: (706) 546–3452, Email: *charles.pixley@fsis.usda.gov*.

Worldwide Commodity Codex Committees (Active)

Codex Committee on Fats and Oils (Host Government—Malaysia)

U.S. Delegate

Martin J. Stutsman, J.D., Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740–3835, Phone: (240) 402–1642, Fax: (301) 436–2651, Email: *Martin.Stutsman@fda.hhs.gov*.

Alternate Delegate

Robert A. Moreau, Ph.D., Research Chemist, Eastern Regional Research Center, Agricultural Research Service, U.S. Department of Agriculture, 600 East Mermaid Lane, Wyndmoor, PA 19038, Phone: (215) 233–6428, Fax: (215) 233–6406, Email: *robert.moreau@ars.usda.gov*.

Codex Committee on Fish and Fishery Products (Host Government—Norway)

Delegates

Timothy Hansen, Director, Seafood Inspection Program, National Marine Fisheries Services, National Oceanic and Atmospheric Administration, 1315 East West Highway SSMC#3, Silver Spring, MD 20910, Phone: (301) 713–2355, Fax: (301) 713–1081, Email: *Timothy.Hansen@noaa.gov*.

Dr. William Jones, Director, Division of Seafood Safety, Office of Food Safety (HFS–325), U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–2300, Fax: (301) 436–2601, Email: *William.Jones@fda.hhs.gov*.

Codex Committee on Fresh Fruits and Vegetables (Host Government—Mexico)

U.S. Delegate

Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0247, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0247, Phone: (202) 690–4944, Fax: (202) 690–1527, Email: *dorian.lafond@usda.gov*.

Alternate Delegate

Dongmin (Don) Mu, Product Evaluation and Labeling Team, Food Labeling and Standards Staff, Office of Nutrition, Labeling and Dietary Supplements, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1775, Fax: (301) 436–2636, Email: *dongmin.mu@fda.hhs.gov*.

Codex Committee on Processed Fruits and Vegetables (Host Government—United States)

U.S. Delegate

Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0247, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0247, Phone: (202) 690–4944, Fax: (202) 690–1527, Email: *dorian.lafond@usda.gov*.

Alternate Delegate

Paul South, Ph.D., Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1640, Fax: (301) 436–2561, Email: *paul.south@fda.hhs.gov*.

Codex Committee on Sugars (Host Government—United Kingdom)

U.S. Delegate

Martin J. Stutsman, J.D., Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740–3835, Phone: (240) 402–1642, Fax: (301) 436–2651, Email: *Martin.Stutsman@fda.hhs.gov*.

Worldwide Commodity Codex Committees (Adjourned)

Codex Committee on Cocoa Products and Chocolate (Adjourned Sine Die) (Host Government—Switzerland)

U.S. Delegate

Michelle Smith, Ph.D., Food Technologist, Office of Plant and Dairy Foods and Beverages, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–306), Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740–3835, Phone: (240) 402–2024, Fax: (301) 436–2651, Email: *michelle.smith@fda.hhs.gov*.

Cereals, Pulses and Legumes (Adjourned Sine Die) (Host Government—United States)

Delegate

Henry Kim, Ph.D., Supervisory Chemist Division of Plant Product Safety, Office of Plant and Dairy Foods, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–2023, Fax: (301) 436–2651, Email: *henry.kim@fda.hhs.gov*.

Codex Committee on Meat Hygiene (Adjourned Sine Die) (Host Government—New Zealand)

U.S. Delegate

VACANT

Codex Committee on Milk and Milk Products (Adjourned Sine Die) (Host Government—New Zealand)

U.S. Delegate

Duane Spomer, Chief, Safety, Security and Emergency Preparedness Branch, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2095, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, Phone: (202) 720–1861, Fax: (202) 205–5772, Email: *duane.spomer@ams.usda.gov*.

Alternate Delegate

John F. Sheehan, Director, Division of Plant and Dairy Food Safety, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–3 15), Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740, Phone: (240) 402–1488, Fax: (301) 436–2632, Email: *john.sheehan@fda.hhs.gov*.

Codex Committee on Natural Mineral Waters (Host Government—Switzerland)

U.S. Delegate

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Codex Committee on Vegetable Proteins (Adjourned Sine Die) (Host Government—Canada)

U.S. Delegate

VACANT

Ad Hoc Intergovernmental Task Forces

Ad Hoc Intergovernmental Task Force on Animal Feeding (Host Government—Switzerland)

Delegate

Daniel G. McChesney, Ph.D., Director, Office of Surveillance & Compliance, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7529 Standish Place, Rockville, MD 20855, Phone: (240) 453–6830, Fax: (240) 453–6880, Email: *Daniel.McChesney@fda.hhs.gov*.

Alternate

Dr. Patty Bennett Branch Chief, Risk Assessment Division, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 901 Aerospace Center, Washington, DC 20250, Phone: (202) 690–6189, Fax: (202) 690–6337, Email: *patty.bennett@fsis.usda.gov*.

[FR Doc. 2013–14862 Filed 6–20–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of a Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Foreign Agricultural Service's intention to request an extension for a currently approved information collection in support of the regulation providing for the issuance of certificates of quota eligibility (CQEs) required to enter sugar and sugar-containing products under tariff-rate quotas (TRQs) into the United States.

DATES: Comments on this notice must be received by no later than August 20, 2013 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For additional information and to submit comments contact William Janis, International Economist, Import Policies and Export Reporting Division, AgStop 1021, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–1021 or telephone (202) 720–2194, fax to (202) 720–0876, or email *William.Janis@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certificates of Quota Eligibility.

OMB Number: 0551–0014.

Expiration Date of Approval: October 31, 2013.

Type of Request: Extension of a currently approved information collection.

Abstract: Additional U.S. note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), established by Presidential Proclamation 6763 of December 1994, authorizes the Secretary of Agriculture to establish for each fiscal year the quantity of sugars and syrups that may be entered at the lower tariff rates of TRQs. This authority was proclaimed by the President to implement the results of the Uruguay Round of multilateral trade negotiations as reflected in the provisions of Schedule XX (United States), annexed to the Agreement establishing the World Trade Organization (WTO). Under various free trade agreements (FTAs), the United States has agreed to require CQEs for the entry into U.S. customs territory of sugar and sugar-containing products. The authority for requiring these certificates is the Implementation Acts for the U.S.—Colombia and U.S.—Panama Trade Promotion Agreements, set forth under 19 U.S.C. 3805.

The terms under which CQEs will be issued to foreign countries that have been allocated a share of the WTO TRQ or have an allocation under a FTA TRQ are set forth in 15 CFR part 2011, Allocation of Tariff-Rate Quota on Imported Sugars, Syrups, and Molasses, Subpart A—Certificate of Quota Eligibility. This regulation provides for the issuance of CQEs by the Secretary of Agriculture and in general prohibits sugar subject to the above-mentioned TRQs from being imported into the United States or withdrawn from a warehouse for consumption at the in-quota duty rates unless such sugar is accompanied by a valid CQE.

CQEs are distributed to foreign countries by the Director of the Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agriculture Service, or his or her designee. The distribution of CQEs is in such amounts and at such times as the Director determines are appropriate to enable the foreign country to fill its quota allocation for such quota period in a reasonable manner, taking into account harvesting periods, U.S. import requirements, and other relevant factors. The information required to be collected on the CQE is used to monitor and control the imports of products subject to the WTO and FTA sugar TRQs. A valid CQE, duly executed and issued by the Certifying Authority of the foreign country, is required for eligibility to enter the products into U.S. customs territory under the TRQs.

Estimate of burden: The public reporting burden for the collection directly varies with the number of CQEs issued.

Respondents: Foreign governments.

Estimated number of WTO respondents: 40.

Estimated number of FTA respondents: 2.

Estimated number of responses per respondent: 30 per fiscal year.

Estimated total annual reporting burden: 210 hours.

Requests for Comments: Send comments regarding (a) Whether the information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Copies of this information collection may be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690–1578.

Comments may be sent to William Janis, International Economist, Import Policies and Export Reporting Division, AgStop 1021, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–1021 or telephone (202) 720–2194 or email *William.Janis@fas.usda.gov.* All comments received will be available for public inspection in Room 5526–S at the above address.

Persons with disabilities who require an alternative means of communication for information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD). All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

FAS is committed to complying with the Government Paperwork Reduction Act which requires Government agencies, to the maximum extent feasible, to provide the public the option of electronically submitting information collection. CQEs allow exporters to ship products to the United States at the U.S. sugar price, which is ordinarily higher than the world sugar price. Therefore, in contrast to most information collection documents, CQEs have a monetary value equivalent to the substantial benefits to exporters. CQEs have always been carefully handled as secure documents and distributed only to foreign government-approved Certifying Authorities.

Signed at Washington, DC, on June 7, 2013.

Philip Karsting,

Administrator, Foreign Agricultural Service.

[FR Doc. 2013–14470 Filed 6–20–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Quantity-Based Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, U.S. Department of Agriculture.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade

Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity-based trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

DATES: June 21, 2013.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW., Washington, DC 20250–1021; by telephone (202) 720–2916; by fax (202) 720–0876; or by email *Souleymane.Diaby@fas.usda.gov*.

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, *60 FR 1005* (Jan. 4, 1995). The Secretary of Agriculture further delegated this duty, which lies with the Administrator of the Foreign Agricultural Service (*7 CFR 2.43* (a)(2)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2013) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at *60 FR 427* (Jan. 4, 1995).

Notice: As provided in Section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the WTO Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superceded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 11th day of June 2013.

Philip Karsting,

Administrator, Foreign Agricultural Service.

ANNEX—QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	233,306 mt	January 1, 2013 to December 31, 2013.
Mutton	5,928 mt	January 1, 2013 to December 31, 2013.
Cream	228,785 liters	January 1, 2013 to December 31, 2013.
Evaporated or Condensed Milk	1,049,608 kilograms	January 1, 2013 to December 31, 2013.
Nonfat Dry Milk	399,353 kilograms	January 1, 2013 to December 31, 2013.
Dried Whole Milk	3,086,377 kilograms	January 1, 2013 to December 31, 2013.
Dried Cream	11,055 kilograms	January 1, 2013 to December 31, 2013.
Dried Whey/Buttermilk	39,875 kilograms	January 1, 2013 to December 31, 2013.
Butter	6,009,631 kilograms	January 1, 2013 to December 31, 2013.
Butter Oil and Butter Substitutes	5,923,219 kilograms	January 1, 2013 to December 31, 2013.
Dairy Mixtures	14,186,738 kilograms	January 1, 2013 to December 31, 2013.
Blue Cheese	4,392,999 kilograms	January 1, 2013 to December 31, 2013.
Cheddar Cheese	7,755,536 kilograms	January 1, 2013 to December 31, 2013.
American-Type Cheese	1,046,825 kilograms	January 1, 2013 to December 31, 2013.
Edam/Gouda Cheese	6,442,749 kilograms	January 1, 2013 to December 31, 2013.
Italian-Type Cheese	19,107,668 kilograms	January 1, 2013 to December 31, 2013.
Swiss Cheese with Eye Formation	24,721,281 kilograms	January 1, 2013 to December 31, 2013.
Gruyere Process Cheese	3,321,700 kilograms	January 1, 2013 to December 31, 2013.
Lowfat Cheese	179,373 kilograms	January 1, 2013 to December 31, 2013.
NSPF Cheese	44,901,487 kilograms	January 1, 2013 to December 31, 2013.
Peanuts	19,018 mt	April 1, 2012 to March 31, 2013.
	21,598 mt	April 1, 2013 to March 31, 2014.
Peanut Butter/Paste	4,475 mt	January 1, 2013 to December 31, 2013.
Raw Cane Sugar	1,054,460 mt	October 1, 2012 to September 30, 2013.
	1,033,635 mt	October 1, 2013 to September 30, 2014.
Refined Sugar and Syrups	208,571 mt	October 1, 2012 to September 30, 2013.
	215,423 mt	October 1, 2013 to September 30, 2014.
Blended Syrups	154 mt	October 1, 2012 to September 30, 2013.
	145 mt	October 1, 2013 to September 30, 2014.
Articles Over 65% Sugar	185 mt	October 1, 2012 to September 30, 2013.
	238 mt	October 1, 2013 to September 30, 2014.
Articles Over 10% Sugar	13,061 mt	October 1, 2012 to September 30, 2013.
	14,942 mt	October 1, 2013 to September 30, 2014.
Sweetened Cocoa Powder	305 mt	October 1, 2012 to September 30, 2013.
	124 mt	October 1, 2013 to September 30, 2014.
Chocolate Crumb	7,528,482 kilograms	January 1, 2013 to December 31, 2013.
Lowfat Chocolate Crumb	177,658 kilograms	January 1, 2013 to December 31, 2013.

ANNEX—QUANTITY-BASED SAFEGUARD TRIGGER—Continued

Product	Trigger level	Period
Infant Formula Containing Oligosaccharides	797,480 kilograms	January 1, 2013 to December 31, 2013.
Mixes and Doughs	218 mt	October 1, 2012 to September 30, 2013.
	178 mt	October 1, 2013 to September 30, 2014.
Mixed Condiments and Seasonings	419 mt	October 1, 2012 to September 30, 2013.
	593 mt	October 1, 2013 to September 30, 2014.
Ice Cream	1,920,680 liters	January 1, 2013 to December 31, 2013.
Animal Feed Containing Milk	75,883 kilograms	January 1, 2013 to December 31, 2013.
Short Staple Cotton	1,056,786 kilograms	September 20, 2012 to September 19, 2013.
	2,385,410 kilograms	September 20, 2013 to September 19, 2014.
Harsh or Rough Cotton	60 kilograms	August 1, 2012 to July 31, 2013.
	60 kilograms	August 1, 2013 to July 31, 2014.
Medium Staple Cotton	8,805 kilograms	August 1, 2012 to July 31, 2013.
	57,587 kilograms	August 1, 2013 to July 31, 2014.
Extra Long Staple Cotton	64 kilograms	August 1, 2012 to July 31, 2013.
	505,834 kilograms	August 1, 2013 to July 31, 2014.
Cotton Waste	393,492 kilograms	September 20, 2012 to September 19, 2013.
	589,849 kilograms	September 20, 2013 to September 19, 2014.
Cotton, Processed, Not Spun	77,794 kilograms	September 11, 2012 to September 10, 2013.
	50,873 kilograms	September 11, 2013 to September 10, 2014.

[FR Doc. 2013–14858 Filed 6–20–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[6/6/2013 through 6/17/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
TouchSensor Technologies, LLC.	203 North Gables Blvd., Wheaton, IL 60187.	6/6/2013	The firm designs and manufactures patented digital switches for use in touch sensitive user interface panels and solid-state fluid level sensors.
Nothing Shocking, LLC (dba Mojo Musical Supply).	513 South Dudley Street, Burgaw, NC 28425.	6/17/2013	The firm manufactures guitar-related parts, guitar amplifiers and related parts.
National Tractor Parts, Inc.	12127A Galena Rd., Plano, IL 60545.	6/12/2013	Firm manufacturers heavy equipment undercarriage products and assemblies.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: June 17, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–14841 Filed 6–20–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Lee Roy Perez, Inmate Number #85828–279, FCI Herlong, Federal Corrections Institution, P.O. Box 800, Herlong, CA 96113.

On December 13, 2011, in the U.S. District Court, Southern District of Texas, Lee Roy Perez (''Perez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA'').

Specifically, Perez was convicted of knowingly and willfully exporting and causing to be exported and attempting to export and attempting to cause to be exported from the United States to Mexico six Century International Arms, model AKMS rifles which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Perez was sentenced to 48 months of imprisonment and two years of supervised release, and fined a $100 assessment. Perez is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Perez's conviction for violating the AECA, and have provided notice and an opportunity for Perez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Perez. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Perez's export privileges under the Regulations for a period of 10 years from the date of Perez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Perez had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until December 13, 2021, Lee Roy Perez, with a last known address at: Inmate Number #85828–279, FCI Herlong, Federal Corrections Institution, P.O. Box 800, Herlong, CA 96113, and when acting for or on behalf of Perez, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Perez by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 13, 2021.

VI. In accordance with Part 756 of the Regulations, Perez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Perez. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14838 Filed 6–20–13; 8:45 am]

BILLING CODE P

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Placido Molina, Jr., Inmate Number #90986–279, USP Pollock, U.S. Penitentiary, P.O. Box 2099, Pollock, LA 71467.

On March 2, 2012, in the U.S. District Court, Southern District of Texas, Placido Molina, Jr. (''Molina'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Molina was convicted of knowingly and willfully attempting to export and causing to be exported from the United States to Mexico two AK47 semi-automatic rifles which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Molina was sentenced to 46 months of imprisonment and three years of supervised release, and fined a $100 assessment. Molina is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Molina's conviction for violating the AECA, and have provided notice and an opportunity for Molina to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Molina. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Molina's export privileges under the Regulations for a period of 10 years from the date of Molina's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Molina had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until March 2, 2022, Placido Molina, Jr., with a last known address at: Inmate Number #90986–279, USP Pollock, U.S. Penitentiary, P.O. Box 2099, Pollock, LA 71467, and when acting for or on behalf of Molina, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Molina by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until March 2, 2022.

VI. In accordance with Part 756 of the Regulations, Molina may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Molina. This Order shall be published in the **Federal Register**.

Issued this 17th day of June 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–14836 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

RIN: 0693–XC014

[Docket No. 130212127–3550–02]

Proposed Establishment of a Federally Funded Research and Development Center—Second Notice

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST), Department of Commerce, intends to sponsor a Federally Funded Research and Development Center (FFRDC) to facilitate public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. This is the second of three notices which must be published over a 90-day period in order to advise the public of the agency's intention to sponsor an FFRDC.

DATES: Written comments must be received by 5:00 p.m. Eastern time on July 22, 2013.

ADDRESSES: Comments on this notice must be submitted to Keith Bubar either electronically at *keith.bubar@nist.gov,* or at: Keith Bubar, NIST, 100 Bureau Drive Mail Stop 1640, Gaithersburg, MD 20899–1640.

FOR FURTHER INFORMATION CONTACT: Keith Bubar via email at Keith.Bubar@nist.gov or telephone 301.975.8329. Or Keith Bubar, NIST, 100 Bureau Drive Mail Stop 1640, Gaithersburg, MD 20899–1640.

SUPPLEMENTARY INFORMATION: The National Cybersecurity Center of Excellence (NCCoE), hosted by NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE will bring together experts from industry, government and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems, lower risk for companies and individuals in the use of IT systems, and encourage development of innovative, job-creating cybersecurity products and services.

NIST has identified the need to support the NCCoE's mission through the establishment of an FFRDC. In evaluating the need for the FFRDC, NIST determined that no existing FFRDC or contract vehicles provide the scope of services NIST requires. The proposed NCCoE FFRDC will have three primary purposes: (1) Research, Development, Engineering and Technical support; (2) Program/Project Management, to include but not limited to expert advice and guidance in the areas of program and project management focused on increasing the effectiveness and efficiency of cybersecurity applications, prototyping, demonstrations, and technical activities; and (3) Facilities Management. The proposed NCCoE FFRDC may also be utilized by non-sponsors.

The FFRDC will be established under the authority of 48 CFR 35.017.

The NCCoE FFRDC Contractor will be available to provide a wide range of support including, but not limited to:

- Research, Development, Engineering and Technical Support:
  - Establish relationships with private sector organizations to use private sector resources to accomplish tasks that are integral to the operations and mission of the NCCoE.
  - Research and develop frameworks and implementation strategies for inducing industry to invest in and expedite adoption of effective cybersecurity controls and mechanisms on an enterprise-wide scale; and in collaboration with Federal and local governments, deliver planning and documentation support needed to transfer technologies developed by Federal cybersecurity organizations and the NCCoE to production, integration, economic development, and operational implementation entities.
  - Provide systems engineering support to NCCoE programs and proposed security platform development, selection, and implementation. This will include NCCoE infrastructure, project planning, project implementation, and technology transfer components of the NCCoE's efforts to accelerate adoption of robust cybersecurity technologies in the government and private sectors.
  - Generate technical expertise to create a relevant cybersecurity workforce in coordination with the NCCoE staff and in close collaboration with the National Initiative for Cybersecurity Education and with Federal government, university, and industry participants and collaborators in NCCoE activities.
  - Deliver strategies and plans for applying cybersecurity standards, guidelines, and best practice inducements and capabilities to both government and private sectors.
- Program/Project Management:
  - Work within the purpose, mission, general scope, or competency as assigned by the sponsoring agency.
  - Develop and maintain in-depth institutional knowledge of NCCoE programs and operations in order to maintain continuity in the field of cybersecurity and to maintain a high degree of competence, objectivity, and independence in order to respond effectively to the emerging cybersecurity needs of the Nation.
- Facilities Management:
  - In coordination with NCCoE staff, and in collaboration with the State of Maryland and Montgomery County, Maryland, manage physical and logical collaborative facilities to support the acceleration and adoption of robust cybersecurity technologies in the government and private sectors. The activity includes staff support for information technology operations, custodial functions, physical access management, and maintenance operations.

The FFRDC will partner with the sponsoring agency in the design and pursuit of mission goals; provide rapid responsiveness to changing requirements for personnel in all aspects of strategic, technical and program management; recognize Government objectives as its own objectives, partner in pursuit of excellence in public service; and allow for use of the FFRDC by non-sponsors.

We are publishing this notice in accordance with 48 CFR 5.205(b) of the Federal Acquisition Regulations (FAR), to enable interested members of the public to provide comments on this proposed action. This is the second of

three notices issued under the authority of 48 CFR 5.205(b). In particular, we are interested in feedback regarding the proposed scope of the work to be performed by the FFRDC, and the presence of any existing private- or public-sector capabilities in this area that NIST should be considering. NIST intends to publicly summarize and address all comments received in response to these notices.

It is anticipated that a Request for Proposal (RFP) will be posted on FedBizOpps in the summer of 2013. Alternatively, a copy of the RFP can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section above once the RFP is posted.

Dated: June 18, 2013.

Michael Herman,

Executive Officer.

[FR Doc. 2013–14897 Filed 6–20–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 130426414–3414–01]

Request for Information on Pilots to Inform the Creation of Potential New Manufacturing Technology Acceleration Centers (M–TACs)

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce.

ACTION: Notice; Request for Information (RFI).

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to comment on NIST's planning for a Federal Funding Opportunity (FFO), anticipated in fiscal year 2014 (FY14), subject to the availability of appropriated funding. The anticipated 2014 FFO will competitively fund a select number of new Manufacturing Technology Acceleration Centers (M–TACs).

The M–TACs will focus on addressing the technical and business challenges encountered by small and mid-sized U.S. manufacturers as they attempt to integrate, adopt, transition, and commercialize both existing and emerging product and process technologies into their operations to help them grow and compete within manufacturing supply chains as innovative, value-adding components of our nation's economy. U.S. small and mid-sized manufacturers are a critical segment of our economy, comprising over 90% of all manufacturing establishments and approximately 45% of employment.[1] U.S. small and mid-sized manufacturers are also playing a growing role in technology innovation, including product and process technologies.[2] The emphasis of these future M–TACs will be to conduct technology transition and commercialization activities with small and mid-sized U.S. manufacturers to foster their readiness to adopt and/or adapt advanced technologies into their manufacturing processes and products.

M–TACs will amplify the effectiveness of the current Hollings Manufacturing Extension Partnership (MEP) network, establishing teams of experts in specific technology/supply chains, offering multiple services and deep expertise through the national MEP network.

This Request For Information (RFI) seeks comments relating to four primary issue areas regarding the M–TACs that are further defined herein: (1) Technology transition and commercialization tools and services that should be provided by M–TACs; (2) M–TAC roles relating to supply chain needs; (3) potential business models for M–TACs; and (4) M–TAC performance and impact metrics. In addition, NIST seeks comments relating to other critical issues that NIST should consider in its strategic planning for future M–TAC investments.

DATES: Comments are due on or before 11:59 p.m. Eastern Time on July 22, 2013.

ADDRESSES: Comments will be accepted by email only. Comments must be sent to *diane.henderson@nist.gov* with the subject line ''M–TAC RFI Comments.''

FOR FURTHER INFORMATION CONTACT: Diane Henderson, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800, 301–975–5105, *diane.henderson@nist.gov;* or David Stieren, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800, 301–975–3197, *david.stieren@nist.gov*. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–NIST.

SUPPLEMENTARY INFORMATION: The objective of this RFI is to assist NIST in the development of the anticipated 2014 FFO for the creation of M–TACs, should NIST receive future appropriated funds for this purpose. NIST notes that in advance of the targeted 2014 M–TAC FFO that is the subject of this RFI, NIST will be releasing an FFO in 2013 to fund approximately two pilot projects that will also inform the planning for future M–TAC investments.

Small and mid-sized manufacturers have proven to be flexible and adaptable in their approach to profitable growth through new markets, customers, products, and processes. Yet there remains a gap between the research being performed by universities, federal labs, consortia, and other entities, and the readiness of many small and mid-sized manufacturers to adopt both existing and emerging technologies into their products and processes to respond to the quality and performance requirements of original equipment manufacturers (OEMs). Recent reports by the President's Council of Advisors on Science and Technology,[3] as well as the Information Technology and Innovation Foundation,[4] point out that small and mid-sized manufacturers lack the financial resources and technical capabilities that large manufacturers have to be able to stay abreast of, and gain access to, the universe of emerging technologies and processes being constantly innovated around the globe. As a result, technology adoption rates of smaller U.S. manufacturers lag those of larger ones.

Through the efforts of its existing network of Centers to provide Next Generation innovation services, NIST's Hollings MEP program has made strides forward to address these needs. However, to effectively assist small and mid-sized manufacturing firms to compete in the global economy, deep expertise specific to a given supply chain or sector is required.

The lack of readiness of small and mid-sized manufacturers and the corresponding lagging technology adoption rates of smaller manufacturers will be primary focus areas of M–TACs. Bridging the gap between available technologies and commercial adoption

[1] ''2010 County Business Patterns,'' U.S. Census Bureau Data, release date 10/2012. For information on confidentiality protection, sampling error, non-sampling error, and definitions, see *http://www.census.gov/econ/susb/methodology.html.*

[2] ''International Benchmarking of Countries' Policies and Programs Supporting SME Manufacturers,'' Stephen J. Ezell and Dr. Robert Atkinson, The Information Technology and Innovation Foundation, September 2011, *http://www.itif.org/files/2011-sme-manufacturing-tech-programss-new.pdf.*

[3] ''Report to the President on Capturing Domestic Competitive Advantage in Advanced Manufacturing,'' President's Council of Advisors on Science and Technology, Executive Office of the President, July 2012, *http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast_amp_steering_committee_report_final_july_27_2012.pdf.*

[4] ''International Benchmarking of Countries' Policies and Programs Supporting SME Manufacturers,'' Stephen J. Ezell and Dr. Robert Atkinson, The Information Technology and Innovation Foundation, September 2011, *http://www.itif.org/files/2011-sme-manufacturing-tech-programss-new.pdf.*

by manufacturers is essentially a two-part problem that first requires a critical step of translating available technologies into competitive market advantage. Second, bridging the gap requires addressing a variety of challenges that serve as barriers to small and mid-sized manufacturers incorporating technology solutions into their processes and new product portfolio. These challenges include technology and knowledge transfer, technology transition, and technology diffusion steps, along with numerous commercialization interventions needed to bring a technology from lab to market. M–TACs will emphasize the provision of technical and business assistance to small and mid-sized manufacturers along the broad spectrum of process improvement and product development services they may need.

A key success factor of the Administration's focus on enhancing U.S. competiveness in advanced manufacturing is the support for highly effective supply chains in technology intensive manufacturing sectors. NIST envisions that future M–TACs will become the connective fabric for efficiently connecting academia, researchers, scientists, engineers and manufacturers with valuable supply chain and market demands, with a particular focus on the needs of small and mid-sized U.S. manufacturers. These M–TACs can serve as a coordination point within key supply chains. The anticipated approach should result in increased job creation and economic growth.

This M–TAC effort aligns with the President's plan to launch a nationwide network of innovation institutes across the country that will develop world-leading manufacturing technologies and capabilities that U.S.-based manufacturers can apply in production to support U.S. manufacturing sector growth.[5] The expectation is that M–TACs will work in collaboration with existing resources, including research consortia and institutions such as those operating as part of or in conjunction with the proposed National Network for Manufacturing Innovation (NNMI), state and local technology-based economic development intermediaries, industry associations, industry-university partnerships, and manufacturing organizations. NIST envisions that M–TACs will operate on a national level using sustainable business models that will allow technology commercialization scale-up to occur to serve substantial numbers of small and mid-sized manufacturers—on the order of several thousand annually.

By providing direct technical and business assistance in technology transition and commercialization areas, M–TACs will address the gap between the research being performed by universities, federal labs, consortia, and other entities, and the readiness of many small and mid-sized manufacturers to adopt new and existing technologies into their products and processes. The ultimate goal of the M–TACs is to deploy scalable resources to increase and accelerate the commercialization of existing and emerging technologies that lead to sustainable economic growth and job creation through more robust domestic supply chains.

The goals of future M–TACs include:

- Demonstrating the operation of business models that enable small and mid-sized U.S. manufacturers to effectively and efficiently access—on a continuing and financially sustainable basis—the assortment of technology transition and commercialization services they need to adopt and/or adapt technology into their products and processes;
- Establishing the appropriate partnerships and demonstrating the interfaces necessary to enable small and mid-sized U.S. manufacturers to effectively access the diverse array of technology transition and commercialization services they need;
- Fostering connections between the existing MEP system and its network of Centers, and other public and private initiatives tasked with linking technologically promising research discoveries and ideas for advanced, high-value-added products and processes with existing U.S. manufacturers and aspiring start-up firms; and
- Identifying where on the technology development and commercialization continuum small and mid-sized manufacturers tend to operate by identifying technology transition and commercialization areas in which small and mid-sized U.S. manufacturers most critically need assistance.

M–TACs are expected to achieve these goals through:

1. Interacting with small and mid-sized U.S. manufacturers through the nationwide network of MEP Centers to operate an effort that is focused on the provision of technology transition and commercialization services to manufacturers, doing so in a manner that is locally driven and nationally connected;

2. Creating teams of experts in specific technology or industrially organized supply chains and offering multiple services and deep expertise to support small and mid-sized manufacturer needs relating to technology transition and commercialization;

- Emphasis will be placed on assisting small and mid-sized manufacturers in functions that apply to the spectrum of technology transition and commercialization services that small and mid-sized manufacturers may need. This may include those services associated with technology and process integration, engineering, new product development, existing product and process innovation, manufacturing scale up, supply chain development, financing, legal (intellectual property and regulatory), marketing, market analysis and research, and workforce development.

3. Collaborating with research consortia and institutions such as those operating as part of or in conjunction with the proposed NNMI, state and local technology-based economic development intermediaries, industry associations, industry-university partnerships, and manufacturing standards organizations.

Request for Information

As noted above, this RFI will assist NIST in developing the anticipated 2014 FFO for the creation of M–TACs, should NIST receive future appropriated funds for this purpose. As such, the questions below are intended to assist in the formulation of comments that will be used to inform future strategic planning. These questions should not be construed as a limitation on the number of comments that interested parties may submit, or as a limitation on the issues that may be addressed in such comments, and the fifth question here provides an opportunity to comment on issues not specifically covered by the first four questions. Submissions should clearly indicate which RFI questions are being addressed by each comment. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Comment submissions must be kept to a maximum of 10 pages, using 12 point, single-spaced font. Do not include in comments or otherwise submit proprietary or confidential information, as all comments received by the deadline will be made publicly available at *www.nist.gov/mep/*. NIST is specifically interested in receiving input

[5] ''Fact Sheet: The President's Plan to Make America a Magnet for Jobs by Investing in Manufacturing,'' The White House Office of the Press Secretary, February 13, 2013, *http://www.whitehouse.gov/the-press-office/2013/02/13/fact-sheet-president-s-plan-make-america-magnet-jobs-investing-manufactu.*

on one or more of the following questions:

1. What are the specific types of technology transition and commercialization tools and services that should be provided by M–TACs? Emphasis is on the alignment of these tools and services with the most pressing needs of small and mid-sized U.S. manufacturers.

a. How would M–TAC services complement the services currently offered by MEP Centers?

2. What role should future M–TACs play with respect to supply chain needs? How should OEMs participate? How can industry associations, professional societies, and other appropriate national organizations participate?

3. Is there a particular long-term scalable and financially sustainable business model that should be implemented by future M–TACs that will enable small and mid-sized U.S. manufacturers to effectively access and benefit from the technology transition and commercialization assistance and other resources they need?

a. Because of the programmatic connection to the NIST MEP Program, M–TACs may require cost share. Are there cost share models for future M–TACs that promote scale up to reach nationally dispersed clusters of small and mid-sized manufacturers? If so, what are those models, and why might they be successful?

b. The generation of intellectual property is possible, and even likely as a result of M–TAC operations. What types of intellectual property arrangements and management constructs would promote active engagement of industry in these pilots, especially among small and mid-sized U.S. manufacturers that would be supportive of the business model? As appropriate, please include a set of potential options, and please explain your responses.

4. How should an M–TAC's performance and impact be evaluated? What are appropriate measures of success for future M–TACs? Please explain your response including the value of the performance measure to business growth.

5. Are there any other critical issues that NIST MEP should consider in its strategic planning for future M–TAC investments that are not covered by the first four questions? If so, please address those issues here and explain your response.

Dated: June 12, 2013.

Phillip Singerman,

Associate Director for Innovation & Industry Services.

[FR Doc. 2013–14895 Filed 6–20–13; 8:45 am]

BILLING CODE 3510–13–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: *Comments Must Be Received on or Before:* July 22, 2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 8020–00–NIB–0050—Utility Knife, Snap Off Blade, Standard Duty, 9mm
NSN: 8020–00–NIB–0052—Utility Knife, Snap Off Blade, Heavy Duty, 18mm
NSN: 8020–00–NIB–0058—Snap Off Blades, Replacement, Utility Knife, Heavy Duty, 18mm, 8pt
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 8020–00–NIB–0006—Trimmer, Edge, Paint, Refillable, 4¾″ W x 3½″ H
NSN: 8020–00–NIB–0008—Refill Pads, Trimmer, Edge
NSN: 8020–00–NIB–0044—Brush, Synthetic Filament, Flexible Handle, Ergonomic, 2″
NSN: 8020–00–NIB–0045—Brush, Synthetic Filament, Recycled Handle, 2″
NSN: 8020–00–NIB–0046—Brush, Synthetic Filament, Recycled Handle, 1.5″
NSN: 8020–00–NIB–0051—Utility Knife, Snap Off Blade, Standard Duty, 18mm
NSN: 8020–00–NIB–0053—Utility Knife, Snap Off Blade, Cushion Grip, Ergonomic, Heavy Duty, 18mm
NSN: 8020–00–NIB–0054—Utility Knife, Snap Off Blade, Cushion Grip, Ergonomic, Heavy Duty, 25mm
NSN: 8020–00–NIB–0055—Utility Knife, Retractable, Cushion Grip, Ergonomic, Heavy Duty, 2 pt Blade
NSN: 8020–00–NIB–0056—Snap Off Blades, Replacement, Utility Knife, Standard Duty, 9mm, 13 pt
NSN: 8020–00–NIB–0057—Snap Off Blades, Replacement, Utility Knife, Standard Duty, 18mm, 8pt
NSN: 8020–00–NIB–0059—Snap Off Blades, Replacement, Utility Knife, Heavy Duty, 25mm, 7pt
NSN: 8020–00–NIB–0060—Replacement Blades, Utility Knife
COVERAGE: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: General Services Administration, Tools Acquisition Division I, Kansas City, MO
NSN: MR 10623—Container, Frozen Waffle, Expandable
NSN: MR 10627—Garden Seed Packets, Assorted, 4PK
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency (DeCA), Fort Lee, VA
COVERAGE: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Folder, File, Hanging

NSN: 7530–01–372–3102—Light Blue, Letter Size, 1 Divider, 4 Sections
NSN: 7530–00–NIB–1098—Light Blue, Letter Size, 2-Dividers, 6 Sections
NSN: 7530–00–NIB–1099—Light Blue, Legal Size, 1-Divider, 4 Sections
NSN: 7530–00–NIB–1100—Light Blue, Legal Size, 2-Dividers, 6 Sections
NPA: Clovernook Center for the Blind and Visually Impaired, Cincinnati, OH
Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Helmet, Safety, Cap Style, 6–3/4″ to 8″

8415–00–935–3132—Blue

8415–00–935–3139—White
8415–00–935–3140—Yellow
NPA: Keystone Vocational Services, Sharon, PA
Contracting Agency: General Services Administration, Fort Worth, TX
COVERAGE: A-list for the Total Government Requirement as aggregated by the General Services Administration.

Services

Service Type/Location: Grounds and Tree Maintenance Service, National Oceanic and Atmospheric Administration, Daniel K. Inouye Regional Center, 1876 Wasp Blvd., Honolulu, HI.
NPA: Lanakila Pacific, Honolulu, HI
Contracting Activity: Dept of Commerce, National Oceanic and Atmospheric Administration, Seattle, WA
Service Type/Location: Janitorial/Custodial Service, Defense Contract Management Agency (DCMA) Office, 366 Avenue D, Building 7216, Dyess AFB, TX.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX
Contracting Activity: Defense Contract Management Agency (DCMA), Defense Contract Managment Office, Fort Lee, VA
Service Type/Location: Mail Distribution Service, NASA, John F. Kennedy Space Center, Mail Stop: OP–OS, Kennedy Space Center, FL.
NPA: Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc., Fort Wayne, IN
Contracting Activity: National Aeronautics and Space Administration, Kennedy Space Center, Kennedy Space Center, FL

Deletions

The following products are proposed for deletion from the Procurement List:

Products

Test Set, Lead

NSN: 6625–01–121–0510
NSN: 6625–00–395–9313
NPA: Elwyn, Inc., Aston, PA
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH

NSN: 7510–01–219–2309—Ribbon, Typewriter
NPA: Charleston Vocational Rehabilitation Center, North Charleston, SC
Contracting Activity: General Services Administration, New York, NY

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–14873 Filed 6–20–13; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes products and services from the Procurement List that were previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* July 22, 2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Deletions

On 4/12/2013 (78 FR 21916); 4/26/2013 (78 FR 24732–24733); 5/3/2013 (78 FR 25970–25971); and 5/10/2013 (78 FR 27368–27369), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSN: 8415–00–NIB–0012—Sweatshirt, USMA, Hooded, Gray, Large
NSN: 8415–00–NIB–0013—Sweatshirt, USMA, Hooded, Gray, X-Large
NSN: 8415–00–NIB–0014—Sweatshirt, USMA, Hooded, Gray, Medium
NSN: 8415–00–NIB–0015—Sweatshirt, USMA, Crewneck, Gray, Large
NSN: 8415–00–NIB–0016—Sweatshirt, USMA, Crewneck, Gray, X-Large
NSN: 8415–00–NIB–0017—Sweatshirt, USMA, Crewneck, Gray, Medium
NSN: 8415–00–NIB–0018—Sweatpants, USMA, Gray, Large
NSN: 8415–00–NIB–0019—Sweatpants, USMA, Gray, X-Large
NSN: 8415–00–NIB–0020—Sweatpants, USMA, Gray, Medium
NPA: Blind Industries & Services of Maryland, Baltimore, MD
Contracting Activity: W40M Natl Region Contract OFC, Fort Belvoir, VA

NSN: 7930–00–664–6910—Glass Cleaner, Biobased, Heavy Duty, 8 oz.
NPA: Lighthouse for the Blind of Houston, Houston, TX
Contracting Activity: General Services Administration, Fort Worth, TX

Safety-Walk, Tapes & Treads—660 Brown General Purpose

NSN: 7220–00–NIB–0050
NSN: 7220–00–NIB–0051
NSN: 7220–00–NIB–0052
NPA: Louisiana Association for the Blind, Shreveport, LA
Contracting Activity: General Services Administration, New York, NY

NSN: 7530–01–588–1145—DAYMAX System, 2012, Planner, 7-hole, Digital Camouflage
NSN: 7530–01–587–8929—DAYMAX System, 2012, JR Deluxe Planner, 6-hole, Black
NSN: 7530–01–587–8929L—DAYMAX System, 2012, JR Deluxe Planner, 6-hole, Black w/logo
NSN: 7530–01–587–8924L—DAYMAX System, 2012, LE Planner, 3-hole, Navy w/logo
NSN: 7530–01–587–8924—DAYMAX System, 2012, LE Planner, 3-hole, Navy
NSN: 7530–01–587–8923L—DAYMAX System, 2012, Planner, 7-hole, Desert Camouflage w/logo
NSN: 7530–01–587–8923—DAYMAX System, 2012, Planner, 7-hole, Desert Camouflage
NSN: 7530–01–587–8922—DAYMAX System, 2012, JR Deluxe Planner, 6-hole, Digital Camouflage, Black
NSN: 7530–01–587–8922L—DAYMAX System, 2012, JR Deluxe Planner, 6-hole, Digital Camouflage, Black w/logo
NSN: 7530–01–587–8921L—DAYMAX System, 2012, IE Planner, 3-hole, Navy w/logo
NSN: 7530–01–587–8921—DAYMAX System, 2012, IE Planner, 3-hole, Navy
NSN: 7530–01–587–8920L—DAYMAX System, 2012, DOD Planner, 3-hole, Burgundy
NSN: 7530–01–587–8920—DAYMAX System, 2012, DOD Planner, 3-hole, Burgundy
NSN: 7530–01–587–8919—DAYMAX System, 2012, GLE Planner, 7-hole, Navy
NSN: 7530–01–587–8919L—DAYMAX System, 2012, GLE Planner, 7-hole, Navy w/logo

NSN: 7530–01–587–8918L—DAYMAX System, 2012, Planner, 7-hole, Woodland Camouflage w/logo
NSN: 7530–01–587–8918—DAYMAX System, 2012, Planner, 7-hole, Woodland Camouflage
NSN: 7530–01–587–8144—DAYMAX System, 2012, GLE Planner, 7-hole, Burgundy
NSN: 7530–01–587–8144L—DAYMAX System, 2012, GLE Planner, 7-hole, Burgundy
NSN: 7530–01–587–8138—DAYMAX System, 2012, GLE Planner, 7-hole, Black
NSN: 7530–01–587–8138L—DAYMAX System, 2012, GLE Planner, 7-hole, Black w/logo
NSN: 7530–01–587–8133—DAYMAX System, 2012, LE Planner, 3-hole, Burgundy
NSN: 7530–01–587–8133L—DAYMAX System, 2012, LE Planner, 3-hole, Burgundy w/logo
NSN: 7530–01–587–8132—DAYMAX System, 2012, IE Planner, 3-hole, Black
NSN: 7530–01–587–8132L—DAYMAX System, 2012, IE Planner, 3-hole, Black w/logo
NSN: 7530–01–587–8131L—DAYMAX System, 2012, LE Planner, 3-hole, Black w/logo
NSN: 7530–01–587–8131—DAYMAX System, 2012, LE Planner, 3-hole, Black
NSN: 7530–01–587–8130L—DAYMAX System, 2012, IE Planner, 3-hole, Burgundy
NSN: 7530–01–587–8130—DAYMAX System, 2012, IE Planner, 3-hole, Burgundy
NSN: 7530–01–587–8125—DAYMAX System, 2012, JR Planner, 6-hole, Burgundy
NSN: 7530–01–587–8125L—DAYMAX System, 2012, JR Planner, 6-hole, Burgundy w/logo
NSN: 7530–01–587–8124L—DAYMAX System, 2012, JR Planner, 6-hole, Navy w/logo
NSN: 7530–01–587–8124—DAYMAX System, 2012, JR Planner, 6-hole, Navy
NSN: 7530–01–587–8123—DAYMAX System, 2012, JR Planner, 6-hole, Black
NSN: 7530–01–587–8123L—DAYMAX System, 2012, JR Planner, 6-hole, Black w/logo
NSN: 7510–01–587–8925—DAYMAX System, 2012, Week at a View, GLE, 7-hole
NSN: 7510–01–587–8201—DAYMAX System, 2012, Tabbed Monthly, GLE, 7-hole
NSN: 7510–01–587–8199—DAYMAX System, 2012, Tabbed Monthly, IE/LE, 3-hole
NSN: 7510–01–587–8198—DAYMAX System, 2012, Week at a View, IE/LE, 3-hole
NSN: 7510–01–587–8194—DAYMAX System, 2012, Month at a View, IE/LE, 3-hole
NSN: 7510–01–587–8184—DAYMAX System, 2012, Day at a View, GLE, 7-hole
NSN: 7510–01–587–8175—DAYMAX System, 2012, Month at a View, GLE, 7-hole
NSN: 7510–01–587–8170—DAYMAX System, 2012, Day at a View, IE/LE, 3-hole
NSN: 7510–01–587–8122—DAYMAX System, 2012, Tabbed Monthly, JR, 6-hole
NSN: 7510–01–545–4432—DAYMAX System, 2012, Calendar Pad, Type I
NSN: 7510–01–545–3771—DAYMAX System, 2012, Calendar Pad, Type II
NSN: 7530–01–545–3751—DAYMAX System, 2012, Appointment Refill
NSN: 7530–01–588–1144—Digital Camouflage Time Management System
NSN: 7530–01–573–4845—JR Deluxe Version TMS, Black
NSN: 7530–01–573–4845L—JR Deluxe Version TMS, Black w/Logo
NSN: 7530–01–573–4846L—JR Deluxe Version TMS, Digital Camouflage w/Logo
NSN: 7530–01–573–4846—JR Deluxe Version TMS, Digital Camouflage
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, PA
Contracting Activity: General Services Administration, New York, NY

Hydramax Hydration System

NSN: 8465–01–525–1560—Alpha, Black, 120 oz
NSN: 8465–01–525–1561—Alpha, Desert, 120 oz
NSN: 8465–01–524–2763—Mustang, Desert, 120 oz
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Contracting Activity: General Services Administration, Fort Worth, TX

NSN: 2540–00–737–3309—Cushion Seat, Vehicular
NPA: EnableUtah, Ogden, UT
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH

Medium Weight Plastic Cutlery

NSN: 7340–00–NIB–0005
NSN: 7340–00–NIB–0006
NSN: 7340–00–NIB–0007
NSN: 7340–00–NIB–0008
NPA: L.C. Industries for the Blind, Inc., Durham, NC.
Contracting Activity: Dept of the Army, W40M NATL Region Contract OFC, Fort Belvoir, VA.

Emergency Administrative Kit

NSN: 7520–00–NIB–1738—50 Person.
NPA: Associated Industries for the Blind, Milwaukee, WI.
Contracting Activities: GSA/FAS Center of Innovative Acquisition DEV, Arlington, VA.
Federal Emergency Management Agency (FEMA), NETC Acquisition Section, Washington, DC.

NSN: 7045–01–484–1764—Mouse Pad w/Calculator.
NPA: MidWest Enterprises for the Blind, Inc., Kalamazoo, MI.
Contracting Activity: General Services Administration, New York, NY.

Clock, Wall, Battery

NSN: 6645–01–467–8475
NSN: 6645–01–467–8476

Clock, Atomic, Standard, Thermometer

NSN: 6645–01–491–9806
NSN: 6645–01–491–9816
NSN: 6645–01–491–9824
NSN: 6645–01–491–9827
NSN: 6645–01–491–9836
NSN: 6645–01–499–0892
NSN: 6645–01–499–0893
NSN: 6645–01–499–0894
NSN: 6645–01–499–0896
NSN: 6645–01–492–0900

Clock, Wall, Customized

NSN: 6645–01–456–5010
NSN: 6645–01–456–6035

Clock, Wall

NSN: 6645–01–421–6900
NSN: 6645–01–421–6909

Slimline Wall Clock

NSN: 6645–01–516–9631—12″ Putty Case.
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL.
Contracting Activity: General Services Administration, New York, NY.

Services

Service Type/Location: Receiving, Shipping, Handling & Custodial Service, Brunswick Naval Air Station, 35 Dominion Avenue, Building 335, Topsham, ME.
NPA: Pathways, Inc., Auburn, ME.
Contracting Activity: Defense Commissaryagency (DECA), Fort Lee, VA.
Service Type/Location: Grounds Maintenance Service, Fort Sam Houston: Quarters and Common Areas, Fort Sam Houston, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Army, W40M Natl Region Contract OFC, Fort Belvoir, VA.
Service Type/Location: Parts Sorting Service, Kelly Air Force Base: Defense Reutilization and Marketing Office, Kelly AFB, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Air Force, FA7014 AFDW A7KI, Andrews AFB, MD.
Service Type/Location: Grounds Maintenance Service, Kelly Air Force Base: Military Family Housing, Kelly AFB, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Air Force, FA7014 AFDW A7KI, Andrews AFB, MD.
Service Type/Location: Laundry Service, Fort Sam Houston/Fort Hood, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Army, W40M NATL Region Contract OFC, FORT BELVOIR, VA.
Service Type/Location: Recycling Service, Kelly Air Force Base: Basewide, Kelly AFB, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Air Force,

FA7014 AFDW A7KI, Andrews AFB, MD.
Service Type/Location: Linen Service, Fort Hood: Postwide, Fort Hood, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept Of The Army, W40M NATL Region Contract OFC, FORT BELVOIR, VA.
Service Type/Location: Grounds Maintenance Service, Kelly Air Force Base: Basewide (except Military Family Housing), Kelly AFB, TX.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX.
Contracting Activity: Dept of the Air Force, FA7014 AFDW A7KI, Andrews AFB, MD.
Service Type/Location: Petroleum Support Service, Fort Sam Houston/Camp Bullis, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Army, W40M NATL Region Contract OFC, FORT BELVOIR, VA.
Service Type/Location: Operation of Postal Service Center/BITS Service, Brooks Air Force Base: Base Wide, Brooks AFB, TX.
NPA: Goodwill Industries of San Antonio, San Antonio, TX.
Contracting Activity: Dept of the Air Force, FA7014 AFDW A7KI, Andrews AFB, MD.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–14874 Filed 6–20–13; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement for the Disposition of Hangars 2 and 3, Fort Wainwright, Alaska

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Draft Environmental Impact Statement (EIS) for the disposition of two historic hangars at Fort Wainwright (FWA). The Draft EIS analyzes and evaluates the potential environmental impacts associated with proposed disposition options for two historic World War II-era hangars (Hangars 2 and 3) and supporting infrastructure located on the Main Post of FWA. Environmental consequences were evaluated for seven resource areas: Air quality, cultural resources, hazardous materials/hazardous waste, safety, environmental justice and protection of children, sustainability, and transportation. No significant impacts would be anticipated under all resource categories except cultural, which would experience significant impacts.

The Army considered several reuse alternatives for the hangars. All but one of these reuse alternatives were not compatible with the current or future military mission at FWA. This one reuse exception as an unmanned aerial system maintenance hangar was determined to be prohibitively expensive. As a result, only one action alternative was considered as reasonable and is analyzed in detail in the Draft EIS: Demolition of Hangars 2 and 3 (Alternative 1). The No Action Alternative is also considered and carried through for detailed analysis in the Draft EIS. Under the No Action Alternative, demolition of Hangars 2 and 3 would not occur, the hangars would remain vacant, and they would be maintained at minimal levels. The No Action Alternative provides the environmental baseline conditions for comparing the impacts associated with the other alternative.

DATES: The public comment period will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency. The Army will conduct a public meeting for the Draft EIS in Fairbanks, Alaska, with the date and location being announced in the local news media.

ADDRESSES: Please send written comments on the Draft EIS to Mr. Matthew Sprau, Directorate of Public Works, Attention: IMFW–PWE (Sprau), 1060 Gaffney Road #4500, Fort Wainwright, Alaska 99703–4500. Email comments should be sent to: *matthew.h.sprau.ctr@mail.mil.*

FOR FURTHER INFORMATION CONTACT: Ms. Linda Douglass, Public Affairs Office (PAO), IMPC–FWA–PAO (Douglass), 1060 Gaffney Road #5900, Fort Wainwright, Alaska 99703–5900; telephone (907) 353–6701, email: *linda.douglass@us.army.mil.*

SUPPLEMENTARY INFORMATION: Hangars 2 and 3 are contributing resources to the Ladd Field National Historic Landmark (Ladd Field NHL) as well as the Ladd Air Force Base Cold War Historic District (Cold War Historic District) at Fort Wainwright. The Ladd Field NHL was listed on the National Register of Historic Places in 1984, and the Cold War Historic District was determined to be eligible for the National Register of Historic Places in 2010. Constructed between 1943 and 1944 as semi-permanent structures, these hangars have received varying degrees of operational maintenance over the years, but no large-scale rehabilitation has occurred. To accommodate changing missions, the Army completed numerous interior modifications, including creating doorways and windows and altering the interior lateral cross-bracing. The lack of rehabilitation, interior modifications, the age of the structures, a fire in Hangar 2, and the harsh Alaskan environment have all contributed to the compromised structural integrity of both buildings. The U.S. Army Garrison Fort Wainwright, Alaska (USAG FWA) has condemned the buildings, and they are no longer used because they present a safety hazard.

This Draft EIS has been prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA-implementing regulations issued by the President's Council on Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] 1500–1508); and the Army's NEPA-implementing regulation (32 CFR 651, Environmental Analysis of Army Actions). The purpose of this Draft EIS is to inform the decision maker, agencies, interested parties, Alaska Native tribes, and the public of possible environmental consequences associated with the reasonable disposition alternatives for Hangars 2 and 3.

The USAG FWA has entered into consultation concerning the proposed disposition of Hangars 2 and 3 as required by Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800). The USAG FWA concludes that the disposition would result in historic properties being adversely affected. The disposition of the hangars would adversely affect the hangars as contributing resources and, in so doing, would adversely affect the Ladd Field NHL and Cold War Historic District. The Army is pursuing a Memorandum of Agreement (MOA) with the Alaska State Historic Preservation Office and the Advisory Council on Historic Preservation pursuant to 36 CFR 800.6(2)(c) to mitigate adverse effects.

The Army invites federal, state, and local agencies; organizations; the public; and Alaska Native tribes to submit written comments and to participate in a public meeting where oral and written comments and suggestions will be received concerning the alternatives and analyses addressed in the Draft EIS and to fulfill public involvement under Section 106 of the National Historic Preservation Act. The public meeting will be in Fairbanks, Alaska, with the date and location being announced in the local news media.

Copies of the Draft EIS will be available for review at the Noel Wien

Public Library prior to the public meeting. The Draft EIS may also be reviewed electronically at: *www.wainwright.army.mil/env/NEPA/Current.html.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–14726 Filed 6–20–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Supplement to the December 2009 Final Environmental Impact Statement (FEIS) for the Relocation of New River Inlet Ebb Tide Channel and the Placement of the Dredge Material Along 11.1 Miles of Ocean Shoreline of North Topsail Beach in Onslow County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army (DA) authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act, from the Town of North Topsail Beach to modify their original May 27, 2011 DA authorization to relocate the New River Inlet ebb tide channel and to place dredge material along 11.1 miles of oceanfront shoreline in (5) phases over an eight to nine year timeframe. Additionally, the authorization permits up to a maximum of (7) maintenance events within the relocated ebb tide channel, which is equivalent to a maximum of one maintenance event every 4 years until authorization expires on December 31, 2041. The main purpose of the project is to provide short and long-term protection of the Town's infrastructure. The proposed modification request includes the consolidation of Phases II–V into one phase (in a single dredging event), the utilization of a hopper dredge, an increase of beach fill density in the original Phase V footprint, the inclusion of an additional borrow source, and the extension of dredging outside the permitted dredge window.

DATES: Written comments will be received until July 22, 2013.

ADDRESSES: Copies of comments and questions regarding the Draft Supplement to the FEIS may be submitted to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. ATTN: File Number 205–00344 (ORM #2004–00344), 69 Darlington Avenue, Wilmington, NC 28403.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Supplement to the EIS can be directed to Mr. Mickey Sugg, Project Manager, Wilmington Regulatory Field Office, at telephone (910) 251–4811; email *mickey.t.sugg@usace.army.mil* ; or regular mail at (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* Between November 26, 2012 and February 9, 2013, the Town of North Topsail Beach implemented Phase I of their authorization, which encompassed the relocation of the New River Inlet ebb tide channel by use of a cutter head dredge and the placement of the dredged material along approximately 1.5 miles of the island's northeast end. Upon the completion of Phase I, the Town has reevaluated its financial status and seeks to modify their DA authorization. A key component in the modification request is to combine Phases II–V. This would replace the current multi-nourishment cycle within the remaining 9.6 miles with a one-time nourishment event constructed during a single dredging window. The proposal also requests that dredging be allowed outside the November 16–March 31 dredge window to extend their operation to April 30, and that the dredging operation include the use of hopper dredge plants. The Town seeks to include a new borrow source, DA143, which is an upland disposal island located near the intersection of New River and the Atlantic Intracoastal Waterway. Historically, DA 143 has been used by USACE as a disposal area during maintenance dredging of nearby federal navigation channels. It is estimated that the disposal island contains approximately 1.9 million cubic yards of material, which will be short of the approximate 2.6 million cubic yards needed for the 9.6 miles of ocean front nourishment. With this short fall of beach fill, the remaining material will be dredged from the existing permitted off-shore borrow source. The 2.6 million cubic yards of material includes the Town's modification plans to increase the original fill density of Phase V from 25.2 cubic yards/linear foot to a range of 57–132 cubic yards/linear foot.

2. *Scoping Process.* a. The USACE will reinitiate consultation with the U.S. Fish and Wildlife Service under the Endangered Species Act and the Fish and Wildlife Coordination Act; with the National Marine Fisheries Service under the Magnuson-Stevens Fishery Conservation and Management Act and the Endangered Species Act; and with the North Carolina State Historic Preservation Office under the National Historic Preservation Act. Additionally, the USACE will coordinate the FEIS Supplement with the North Carolina Division of Water Quality (NCDWQ) to assess the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and with the North Carolina Division of Coastal Management (NCDCM) to determine the projects consistency with the Coastal Zone Management Act. The USACE will closely work with NCDCM and NCDWQ in the development of the Supplement to ensure the process complies with all State Environmental Policy Act (SEPA) requirements. It is the intention of both the USACE and the State of North Carolina to consolidate the NEPA and SEPA processes thereby eliminating duplication.

b. A 45-day public review period will be provided for all interested parties, individuals, and agencies to review and comment on the Draft Supplement to the FEIS when released.

3. *Availability of the Supplement to the EIS.* The Draft Supplement is expected to be published and circulated the summer of 2013.

Dated: June 12, 2013.

Scott McLendon,

Chief, Regulatory Division.

[FR Doc. 2013–14725 Filed 6–20–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0082]

Agency Information Collection Activities; Comment Request; Elementary and Secondary Improvement Formula Grants

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 20, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the

Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0082 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Elementary and Secondary Improvement Formula Grants.

OMB Control Number: 1810–0682.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 3,102.

Total Estimated Number of Annual Burden Hours: 229,800.

Abstract: This information collection request covers requirements for applications to the School Improvement Grants program. On January 21, 2010, the U.S. Department of Education (Department) published final requirements and a State educational agency (SEA) application for the School Improvement Grants (SIG) program authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and funded through the Department of Education Appropriations Act, 2009, and the American Recovery and Reinvestment Act of 2009 (ARRA) (FY 2009). The final requirements defined the criteria that an SEA must use to award FY 2013 SIG funds to local educational agencies (LEAs). In awarding these funds, an SEA must give priority to the LEAs with the lowest-achieving schools that demonstrate the greatest need for the funds and the strongest commitment to using the funds to provide adequate resources to their lowest-achieving schools that are eligible to receive services provided through SIG funds in order to raise substantially the achievement of the students attending those schools. The information collection activities consist of: (1) Applications for an SEA to submit to the Department to apply for FY 2013 SIG funds; (2) the reporting of specific school-level data on the use of SIG funds and specific interventions implemented in LEAs receiving SIG funds that the Department currently collects through EDFacts; (3) the process for an LEA to apply to its SEA for SIG funds; and (4) the SEAs posting its LEAs applications on the SEAs Web site.

Dated: June 17, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14778 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0079]

Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection

AGENCY: Department of Education (ED), OCR.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before August 20, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0079 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Mandatory Civil Rights Data Collection.

OMB Control Number: 1870—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 17,620.

Total Estimated Number of Annual Burden Hours: 1,499,890.

Abstract: The collection, use and reporting of education data is an integral component of the mission of the U.S. Department of Education (ED). EDFacts, an ED initiative to put performance data at the center of ED's policy, management, and budget decision-making processes for all K–12 education programs, has transformed the way in which ED collects and uses data. For school years 2009–10 and 2011–12, the Civil Rights Data Collection (CRDC) was approved by OMB as part of the EDFacts information collection (1875–0240). For school years 2013–14 and 2015–16, the Office for Civil Rights (OCR) is clearing the CRDC as a separate collection from EDFacts. ED's CRDC information collection is modeled after the most current EDFacts information collection approved by OMB (1875–0240). As with previous CRDC collections, the purpose of the 2013–14 and 2015–16 CRDC is to obtain vital data related to the civil rights laws requirement that public local educational agencies (LEAs) and elementary and secondary schools provide equal educational opportunity. ED has extensively analyzed the uses of every data element collected in the 2011–12 CRDC and sought advice from experts across ED to refine, improve, and where appropriate, add or remove data elements from the collection. The 2013–14 and 2015–16 CRDC redesign effort ensured that, while several new indicators were added to the collection, data elements also were removed where appropriate. ED also made the CRDC data definitions and metrics consistent with other mandatory collections across ED wherever possible. The proposed additions and changes to the 2013–14 and 2015–16 CRDC reflect the need for a deeper understanding of and accurate data about the educational opportunities and school context for our nation's students. ED seeks OMB approval under the Paperwork Reduction Act to collect from LEAs, the elementary and secondary education data described in the sections of Attachment A. In addition, ED requests that LEAs and other stakeholders respond to the directed questions found in Attachment A–5.

Dated: June 17, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14783 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0080]

Agency Information Collection Activities; Comment Request; Assurances for the Protection and Advocacy for Assistive Technology (PAAT) Program

AGENCY: Department of Education (ED), Office of Special Education and Rehabilitative Services (OSERS)

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 20, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0080 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Assurances for the Protection and Advocacy for Assistive Technology (PAAT) Program.

OMB Control Number: 1820–0658.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: This information collection instrument will be used by grantees to request funds to carry out the Protection and Advocacy for Assistive Technology (PAAT) Assurances program. PAAT is mandated by the Assistive Technology Act of 1998, as amended in 2004 (AT Act), to provide protection and advocacy services to individuals with disabilities for the purposes of assisting in the acquisition, utilization or maintenance of assistive technology or assistive technology services.

Dated: June 17, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14784 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Survey on the Use of Funds Under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new collection.

DATES: Interested persons are invited to submit comments on or before July 22, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0040 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117 Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Survey on the Use of Funds Under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds.

OMB Control Number: 1810—NEW.

Type of Review: New collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 260.

Abstract: The reauthorized Elementary and Secondary Education Act (ESEA) places a major emphasis on teacher quality as a significant factor in improving student achievement. Under ESEA, Title II, Part A provides funds to states (SEAs) and school districts (LEAs) to conduct a variety of teacher-related reform activities. ESEA funds can be used for a variety of teacher quality activities in any subject area. Although the majority of funds are provided to LEAs, allowable SEA uses of funds include: Reforming teacher and principal certification (including recertification) and licensure to ensure that teachers have the necessary subject-matter knowledge and teaching skills in the subjects they teach; and providing support to teachers and principals through programs such as teacher mentoring, team teaching, reduced class schedules, intensive professional development, and using standards or assessments to guide beginning teachers; and carrying out programs to establish, expand, or improve alternative routes for state certification for teachers and principals (especially in mathematics and science) that will encourage highly qualified individuals with at least a baccalaureate degree; and developing and implementing effective mechanisms that help LEAs and schools recruit and retain highly qualified teachers, principals, and pupil services personnel; and reforming tenure systems, implementing teacher testing for subject-matter knowledge, and implementing teacher testing for state certification or licensure, consistent with Title II of the Higher Education Act.

Dated: June 17, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14787 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0081]

Agency Information Collection Activities; Comment Request; Annual Performance Reporting (APR) System for NIDRR Grantees (RERCs, RRTCS, FIPs, ARRTs, DBTAC, DRRPs)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 20, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0081 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be

processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Performance Reporting (APR) System for NIDRR Grantees (RERCs, RRTCS, FIPs, ARRTs, DBTAC, DRRPs).

OMB Control Number: 1820–0675.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 266.

Total Estimated Number of Annual Burden Hours: 13,832.

Abstract: The National Institute on Disability and Rehabilitation Research (NIDRR) of the Department of Education requests an extension of the Annual Performance Reporting (APR) System for NIDRR Grantees (RERCs, RRTCS, FIPs, ARRTs, DBTAC, DRRPs) 1820–0695. These APRs are collected by the Department to facilitate program planning and management; respond to Education Department General Administrative Regulations requirements; and reporting requirements under the Government Performance and Results Act of 1993 (P.L. 103–62) for these ten NIDRR grant programs: Rehabilitation Research Training Centers (RRTCs); Rehabilitation Engineering Research Centers (RERCs); Field Initiated Research Projects (FIPs); Advanced Rehabilitation Research Training Projects (ARRTs); Model Systems (including spinal cord injury, traumatic brain injury, and burn centers); Disability and Rehabilitation Research Projects (DRRPs); Knowledge Translation (KT) Projects; ADA National Network Centers (ADAs); Small Business Innovation Research Projects (SBIR) grantees (Phase 2 only) and Research Fellowships Program (RFP).

Dated: June 17, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14786 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0049]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study of the Delivery of Services Under the State Vocational Rehabilitation Grants Program

AGENCY: Department of Education (ED), Office of Special Education and Rehabilitative Services (OSERS).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before July 22, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0049 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117,Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Study of the Delivery of Services under the State Vocational Rehabilitation Grants Program.

OMB Control Number: 1820—NEW.

Type of Review: New collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 83.

Total Estimated Number of Annual Burden Hours: 212.

Abstract: The Vocational Rehabilitation (VR) Program provides a wide range of services to help individuals with disabilities to prepare for and engage in gainful employment. Eligible individuals are those who have a physical or mental impairment that results in a substantial impediment to employment, who can benefit from VR services for employment, and who require VR services. If a State is unable to serve all eligible individuals, priority must be given to serving individuals with the most significant disabilities. The program is funded through formula-based grants awarded by the Rehabilitation Services Administration (RSA) to State VR agencies receive funding from the basic Title I formula grant program. The Rehabilitation Act Title I formula grant program provides funds to VR agencies to help individuals with disabilities prepare for and engage in gainful employment consistent with their strengths, abilities, interests, and informed choice through such supports as counseling, medical, and psychological services, job training, and other individualized services.

RSA proposes to conduct a national survey of all 80 state VR agencies. RSA seeks to evaluate how State VR agencies deliver services for individuals with disabilities, how and to what extent state VR agencies work with partner agencies or programs to deliver services, and to review program outcomes and their associated costs, including identifying cost effective practices for serving specific target populations. RSA will address the following objectives: Determine the methods and practices used by State VR agencies in delivering services to individuals with disabilities,

including optimal patterns of delivery in serving specific populations; determine how, and to what extent, State VR agencies work with partner agencies or programs to deliver services; and examine program outcomes and their associated costs, including identifying cost effective practices for serving specific target populations.

Dated: June 17, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–14785 Filed 6–20–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Engineered High Energy Crop Programs, Southeastern United States

AGENCY: Department of Energy (DOE).

ACTION: Notice of intent to prepare an environmental impact statement and conduct public scoping meetings.

SUMMARY: The U.S. Department of Energy (DOE), Advanced Research Projects Agency-Energy (ARPA–E) announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS) and conduct public scoping meetings to evaluate the potential environmental impacts of DOE's proposed action to implement one or more programs to catalyze the development and demonstration of engineered high energy crops (EHECs). EHECs are agriculturally-viable photosynthetic species containing genetic material that has been intentionally introduced through biotechnology, interspecific hybridization, or other engineering processes (excluding processes that occur in nature without human intervention), and specifically engineered to produce more energy per acre by producing fuel molecules that can be introduced easily into existing energy infrastructure.

EHECs include those being developed under the ARPA–E Plants Engineered to Replace Oil (PETRO) program. A main component of the proposed EHEC programs would be providing financial assistance for field trials to evaluate the performance of EHECs. Confined field trials may range in size and could include development-scale (up to 5 acres), pilot-scale (up to 250 acres), or demonstration-scale (up to 15,000 acres). All necessary permits, such as from the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), would be obtained before initiating confined field trials. This PEIS will assess the potential environmental impacts of such confined field trials in the southeastern United States.

DATES: DOE invites comments on the proposed scope of this PEIS from all interested parties. The scoping period for this PEIS starts with the publication of this notice and continues through July 22, 2013. DOE will consider all comments submitted electronically or postmarked by July 22, 2013. Comments submitted after this date will be considered to the extent practicable.

DOE will conduct scoping meetings to solicit input on the issues, concerns, and alternatives of the PEIS. Poster sessions will be hosted at each location from 5:00 to 6:45 p.m., followed by an open forum to receive comments from 7:00 to 9:00 p.m. The scoping meetings will be held:

- July 9, 2013—Lexington Convention Center, 430 West Vine Street, Lexington, KY
- July 10, 2013—Mississippi e-Center at Jackson State University (Convention Hall), 1230 Raymond Road, Jackson, MS
- July 11, 2013—Raleigh Convention Center, 500 S. Salisbury Street, Raleigh, NC

DOE will also host one web-based meeting on July 17, 2013 from 3:00 to 5:00 p.m. Eastern Time. Details regarding the scoping meetings, including how to participate in the web-based meeting, are provided under **SUPPLEMENTARY INFORMATION** and on the PEIS Web site: *http://engineeredhighenergycropsPEIS.com.*

ADDRESSES: Written comments may be submitted by any of the following methods:

- *PEIS Web site: http://engineeredhighenergycropsPEIS.com.*
- *Email: comments@engineeredhighenergycropsPEIS.com.*
- *Mail:* Dr. Jonathan Burbaum, Program Director, ARPA–E, U.S. Department of Energy, ATTN: EHEC PEIS, 1000 Independence Avenue SW., Mailstop-950–8043, Washington, DC 20585. **Note:** Comments submitted by U.S. Postal Service may be delayed by mail screening.

This Notice of Intent (NOI), the Draft PEIS, and the Final PEIS will be posted on the DOE National Environmental Policy Act (NEPA) Web site at *http://energy.gov/nepa.* These documents and additional materials relating to this PEIS will also be available on the PEIS Web site at: *http://engineeredhighenergycropsPEIS.com.*

FOR FURTHER INFORMATION CONTACT: For more information on the PEIS or to be added to the PEIS distribution list, contact Dr. Jonathan Burbaum, Program Director, by one of the methods described in the **ADDRESSES** section, or by telephone at (202) 287–5453.

For general information on the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, or telephone at (202) 586–4600, voicemail at (800) 472–2756, or email at *askNEPA@hq.doe.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact (800) 877–8339.

SUPPLEMENTARY INFORMATION: The EHEC PEIS (DOE/EIS–0481) is being prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requirements, the Council on Environmental Quality's NEPA regulations (40 CFR parts 1500–1508), and DOE's NEPA Implementing Procedures (10 CFR part 1021).

DOE has prepared this NOI to inform interested parties of the planned PEIS and scoping meetings, and to invite public comments on the proposed action, reasonable alternatives for program implementation, and the range of environmental issues to be considered in the PEIS. DOE will consult with interested American Indian Tribes and federal, state, regional and local agencies during preparation of the PEIS. In addition, DOE invites agencies with jurisdiction by law or special expertise to participate as cooperating agencies in the preparation of this PEIS.

Background

DOE's mission and strategic goals include promoting U.S. energy security by providing reliable, clean, and affordable energy and strengthening U.S. technological leadership and economic competitiveness through advancements in science and technology. ARPA–E's goals include enhancing U.S. economic and energy security through the development of advanced energy technologies that reduce imports of foreign oil, reduce energy-related emissions, and ensure that the U.S. maintains a technological lead in developing and deploying advanced energy technologies. A core aspect of ARPA–E's mission is to expedite the timeline for bringing technologies to market. The proposed

programs aim to deploy EHECs that produce more energy per acre and produce fuel molecules that require little or no processing prior to being introduced into existing energy infrastructure (e.g., refineries, pipelines, and vehicles), thus promoting agriculturally-derived fuels that are cost-competitive with petroleum-based fuels. Programs that catalyze the deployment of EHECs to market, including development and demonstration field trials, would further the mission and strategic goals of DOE.

Purpose and Need for DOE Action

Present day production of biofuels is limited by the relatively inefficient capture of solar energy and conversion of carbon dioxide that occurs during plant photosynthesis into a ready-to-use energy source. EHEC programs are experimenting with a variety of plants to create molecules similar to those found in petroleum-based fuels that will facilitate biofuel production. EHECs include those being developed under the ARPA–E PETRO program. Successful EHEC programs can advance the environmentally responsible deployment of biofuels produced by, or through the processing of, engineered plants to provide cost-effective, large-scale, and renewable substitute fuels.

The purpose and need for agency action is to facilitate the deployment of EHECs through funding programs that support research, development, and demonstration of EHECs up to commercial scale. In the absence of DOE funding and support for EHEC programs, scientific understanding and innovation in the responsible use of EHEC crops and, ultimately, commercial deployment of EHECs would develop more slowly or not at all. Accordingly, DOE needs to take action to catalyze the development and deployment of EHEC crops.

Proposed Action

DOE proposes to develop and implement one or more programs to catalyze the development and deployment of EHECs. A main component of these programs would be providing financial assistance to recipients, such as research institutions, independent contract growers, or commercial entities, for conducting confined field trials to test the effectiveness of EHECs. Confined field trials are experiments to evaluate the performance of a crop that are conducted under stringent terms and conditions designed to confine the experimental crop. Confined field trials may range in size and could include development-scale (up to 5 acres), pilot-scale (up to 250 acres), or demonstration-scale (up to 15,000 acres). Confined field trials are essential to test the viability of EHECs under real field conditions in local environments. Engineered crops within confined field trials are grown only after obtaining regulatory permits that identify procedures to limit or prevent the unintentional spread and establishment of the crop. Specifically, funding recipients would need to acquire a permit from the USDA APHIS before initiating each confined field trial. To acquire an APHIS permit, a funding recipient would need to prepare a permit application that provides detailed information about the nature of the crops to be introduced and the conditions that would be used to prevent the spread and establishment of the crop in the environment. Following a careful review of the permit application and a project-specific review of the proposed permitting action under NEPA, APHIS may determine to issue a permit for the proposed confined field trial. The funding recipients could then carry out the confined field trial in accordance with the terms and conditions of the APHIS permit and applicable federal, state, and local laws and regulations. Additionally, the Environmental Protection Agency (EPA), under the Federal Insecticide, Fungicide, and Rodenticide Act, regulates the planting, food, and feed use of transgenic plants into which genetic material has been inserted that imparts pesticidal properties. The Food and Drug Administration, under the Federal Food, Drug, and Cosmetic Act, regulates transgenic food and feed crops or products from transgenic crops that may come in contact with food. Analyses from this PEIS would inform these permit applications as well.

Examples of EHECs that may be used in confined field trials include, but are not limited to, crops being investigated under ARPA–E's PETRO program such as genetically engineered varieties of camelina, loblolly pine, tobacco, giant cane, sugarcane, miscanthus, sorghum, and switchgrass. For additional information regarding ARPA–E's PETRO program and the specific technologies being investigated in PETRO projects, visit the PETRO program Web site at: *http://arpa-e.energy.gov/?q=arpa-e-programs/petro.*

This PEIS will assess the potential environmental impacts of confined field trials in the southeastern United States. DOE's proposed action under this PEIS will be limited to the states of Alabama, Florida (excluding the Everglades/Southern Florida coastal plain ecoregion), Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. These states offer climate and agricultural conditions that favor cultivation of EHECs. If experience in these states indicates expansion of the EHEC program is warranted, additional states may be assessed in subsequent environmental reviews. DOE is proposing to use the EPA's Level II ecoregions (also known as ''ecological regions'') to assess common and different potential environmental impacts of the proposed action. Ecoregions are determined based on the presence or absence of common flora, fauna, and non-living ecosystems characteristics. The EPA Level II ecoregions are presented on the EPA's ''Ecoregions Maps and GIS Resources'' Web page at: *http://www.epa.gov/wed/pages/ecoregions/na_eco.htm#Level II.*

Alternatives

The PEIS will evaluate the range of reasonable implementation alternatives. DOE will consider a range of plant characteristics and engineered modifications when analyzing the potential environmental impacts of each alternative at the ecoregion level. The plant characteristics to be considered include, but are not limited to, potential for existing compatible relatives in the region, means of pollination, level of domestication, weediness and competitiveness, toxicity, alternative commercial uses, nativity and range, persistence in the environment, agricultural planting cycles and inputs (water, fertilizers, pesticides), and fire hazard potential. DOE is considering the following alternatives:

- Development-scale Confined Field Trials (up to 5 acres). This scale is small in size and common for testing whether a plant will grow under agricultural conditions.
- Pilot-scale Confined Field Trials (up to 250 acres). Pilot-scale field trials begin to experiment with an engineered plant in a larger sized area and inform decisions of whether to proceed to demonstration-scale. Pilot-scale field trials could involve multiple growers at multiple smaller non-contiguous locations.
- Demonstration-scale Confined Field Trials (up to 15,000 acres). Demonstration-scale field trials test whether crops are commercially viable. This is the estimated acreage of EHECs necessary to demonstrate a hypothetical, small-scale, commercial ethanol plant. Demonstration-scale field trials could involve multiple growers at multiple smaller non-contiguous locations.

• No Action Alternative. Under the No Action Alternative, DOE would not provide financial assistance for the development and implementation of EHEC programs. Although some private-sector field trials involving EHEC crops may be undertaken under permits issued by APHIS, for purposes of the no-action analysis DOE assumes that development of EHEC crops would occur slowly or in an uncoordinated fashion, and that wide-scale commercial deployment would not occur.

Preliminary Environmental Issues for Consideration

DOE issued a public Request for Information (RFI) (DE–FOA–0000908) on April 12, 2013 soliciting input regarding concerns about and barriers to the development of EHECs (including potential environmental impacts), such as those crops being investigated under the ARPA–E PETRO program and potential future DOE programs. Responses were submitted by individuals, academic/research institutions and laboratories, environmental and health organizations, and industry groups. Responses focused on potential environmental issues such as: invasiveness, lifecycle greenhouse gas emissions, agricultural runoff; the potential for EHECs to compete with food and feed crops; specific plants to consider for EHEC programs; issues with the location, duration, and scale of field trials; the desirable environmental and commercial traits of EHECs; and specific agencies and organizations DOE should engage while developing EHEC programs. DOE considered the comments received from the RFI in developing this NOI.

DOE proposes to address the environmental issues listed below. This list is not intended to be comprehensive or to provide a predetermined set of potential impacts. DOE invites comments on whether the following resource areas and impacts are appropriate to be addressed in this PEIS. The preliminary list of potentially affected resources or activities and their related environmental issues includes:

• *Biological resources:* including potential impacts to vegetation, wildlife, threatened or endangered species, migratory birds, ecologically sensitive habitats, alteration in weediness characteristics (invasiveness), biodiversity, and susceptibility to disease or insects;

• *Water resources:* including surface water, groundwater, soil hydrology, sedimentation, runoff, and erosion;

• *Cultural and historic resources;*

• *Floodplains and wetlands;*

• *Socioeconomic resources:* including food and feed crop supplies and prices, schools, housing, public services, employment, and local revenues;

• *Transportation;*

• *Air quality:* including regional air quality;

• *Greenhouse gas emissions and climate change;*

• *Land use:* including agriculture, farmland availability, recreation, timber harvesting, grazing, and soils;

• *Environmental justice:* including potential for disproportionately high and adverse impacts on minority and low-income populations;

• *Noise;*

• *Wilderness areas;*

• *Wild and scenic rivers;*

• *Wildfires;*

• *Visual resources;*

• *Human health and safety;*

• *Terrorism and accidents;* and

• *Cumulative impacts:* for each alternative, DOE will assess potential effects that could result from the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions, including potential impacts from commercial deployment and use of EHECs.

Public Scoping Process and Invitation To Comment

Scoping Process: This NOI initiates the scoping process under NEPA, which helps guide the development of the Draft PEIS. To ensure that all issues related to the proposed action are addressed, DOE requests comments to further delineate the scope, including alternatives and potential environmental issues. Interested government agencies, American Indian tribes, private-sector organizations, and the general public are encouraged to submit comments or suggestions on the scope of the PEIS. DOE is particularly interested in receiving comments on the proposed action, such as: suggestions for reasonable alternatives; the environmental issues to be considered in the PEIS; methods for assessing the common and unique impacts of confined field trials in different ecoregions; and comments concerning the proposed scale of confined field trials. DOE encourages the submission of scientific data, studies, or research to support comments.

DOE will conduct in-person and web-based scoping meetings to solicit input on the potential issues, concerns, and alternatives of the PEIS:

• July 9, 2013—Lexington Convention Center, 430 West Vine Street, Lexington, KY

• July 10, 2013—Mississippi e-Center at Jackson State University (Convention Hall), 1230 Raymond Road, Jackson, MS

• July 11, 2013—Raleigh Convention Center, 500 S. Salisbury Street, Raleigh, NC

DOE will also host one web-based scoping meeting on July 17, 2013 from 3:00 to 5:00 p.m. Eastern Time. Information about the web-based meeting, how to register, and to sign up to provide comments, as well as information about the scoping meetings and comment instructions are provided on the PEIS Web site: *http://engineeredhighenergycropsPEIS.com.*

The in-person scoping meetings will include a poster session from 5:00 to 6:45 p.m. for the public to view exhibits related to the project and to talk with subject matter experts, followed by an open forum to provide oral comments from 7:00 to 9:00 p.m. The open forum will begin with a presentation that will provide an overview of the project and the NEPA process and then the formal commenting session will begin. All oral comments will be transcribed by a court reporter to ensure that all comments are available to DOE for consideration during preparation of the Draft PEIS. Comments will be accepted at the scoping meetings, by mail, by email, and electronically through the online comment form on the PEIS Web site: *http://engineeredhighenergycropsPEIS.com* (see **ADDRESSES**). DOE will give equal consideration to oral and written comments.

The scoping period will end July 22, 2013. Comments should be submitted by that date to ensure consideration (see **ADDRESSES**). DOE will consider comments emailed or postmarked after that date to the extent practicable.

Personally Identifiable Information: Personally identifiable information, such as address, telephone number, email address, or other personal identifying information submitted in comments may become publicly available during the PEIS process. Individual commenters may choose to withhold personally identifiable information from their comments on the PEIS.

PEIS Schedule and Availability: DOE will consider public scoping comments in preparing the Draft PEIS. After consideration of comments, DOE will issue the Draft PEIS for public review. The EPA will publish a notice of availability of the Draft PEIS in the **Federal Register**, which will begin a public comment period of at least 45 days. DOE will announce the methods for commenting on the Draft PEIS, and

will hold at least one public hearing. DOE will consider public comments on the Draft PEIS and respond as appropriate in the Final PEIS. No sooner than 30 days following publication in the **Federal Register** of the EPA's notice of availability of the Final PEIS, DOE will issue a Record of Decision regarding the proposed action.

Signed in Washington, DC, this 14th day of June, 2013.

Cheryl Martin,

Deputy Director for Commercialization, Advanced Research Projects Agency—Energy.

[FR Doc. 2013–14724 Filed 6–20–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring and Remediation Committee, Waste Management Committee, and Waste Isolation Pilot Plant Ad Hoc Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, July 10, 2013 2:00 p.m.–4:00 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *menice.santistevan@nnsa.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring and Remediation Committee (EM&R): The EM&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EM&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Purpose of the Waste Isolation Pilot Plant (WIPP) Ad Hoc Committee: The WIPP Ad Hoc Committee is preparing a recommendation on priorities at WIPP. The committee will be disbanded upon completion of the draft recommendation.

Tentative Agenda

1. 2:00 p.m. Approval of Agenda
2. 2:05 p.m. Approval of Minutes of June 12, 2013
3. 2:10 p.m. Old Business
   - Consideration and Action on Draft Recommendation 2013–06 for Los Alamos National Laboratory Cleanup
4. 2:15 p.m. New Business
   - Update on Draft Recommendation 2013–08 for Space Concerns at the Waste Isolation Pilot Plant—Ad Hoc Committee Members: Gerard Martinez, Carlos Valdez, Stephen Schmelling
   - Discussion of Committee Work Plans for Fiscal Year 2014
5. 2:40 p.m. Update from Executive Committee—Carlos Valdez, Chair
6. 2:50 p.m. Update from DOE—Lee Bishop, Deputy Designated Federal Officer
7. 3:00 p.m. Presentation by Menice Santistevan, NNMCAB Executive Director
   - NNMCAB Processes and Procedures
8. 3:45 p.m. Public Comment Period
9. 4:00 p.m. Adjourn

Public Participation: The NNMCAB's Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*.

Issued at Washington, DC, on June 17, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–14860 Filed 6–20–13; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Methane Hydrate Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Methane Hydrate Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, July 16, 2013, 12:45 p.m. to 1:00 p.m. (EDT)—Registration, 1:00 p.m. to 4:00 p.m. (EDT)—Meeting.

ADDRESSES: U.S. Department of Energy, Forrestal Building, Room 3G–043, 1000 Independence Ave. SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Lou Capitanio, U.S. Department of Energy, Office of Oil and Natural Gas, 1000 Independence Avenue SW., Washington, DC 20585. *Phone:* (202) 586–5098.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Methane Hydrate Advisory Committee is to provide advice on potential applications of methane hydrate to the Secretary of Energy, and assist in developing

recommendations and priorities for the Department of Energy's Methane Hydrate Research and Development Program.

Tentative Agenda: The agenda will include: Welcome and Introduction by the Designated Federal Officer; Discussion of Committee Comments on Draft Methane Hydrate Roadmap; Discussion of Committee Recommendations; and Public Comments, if any.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Lou Capitanio at the phone number listed above and provide your name, organization, citizenship, and contact information. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Anyone attending the meeting will be required to present government-issued identification. Space is limited. Public comment will follow the three-minute rule. The Designated Federal Officer and the Chair of the Committee will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the following Web site: *http://www.fe.doe.gov/programs/oilgas/hydrates/Methane_Hydrates_Advisory_Committee.html.*

Issued at Washington, DC, on June 17, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–14863 Filed 6–20–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR13–25–000]

CHS Inc., Federal Express Corporation, GROWMARK, Inc., HWRT Oil Company LLC, MFA Oil Company, Southwest Airline Co., United Airlines, Inc., UPS Fuel Services, Inc. v. Enterprise TE Products Pipeline Company, LLC; Notice of Complaint

Take notice that on June 14, 2013, pursuant to sections 13(1) and 15(1) of the Interstate Commerce Act (ICA), 49 U.S.C. App. 13(1) and 15(1), and 18 CFR 385.206 (2012), and Rules 343.1(a) and 343.3(c), 18 CFR 343.1(a) and 343.2(c), CHS Inc.; Federal Express Corporation; GROWMARK, Inc.; HWRT Oil Company LLC; MFA Oil Company; Southwest Airline Co.; United Airlines, Inc.; and UPS Fuel Services, Inc. (Complainants) filed a complaint against Enterprise TE Products Pipeline Company, LLC (Enterprise TEPPCO or Respondent) challenging the lawfulness of Enterprise TE Products Pipeline Company LLC's FERC Tariff No. 55.28.0. Specifically, Complainants allege that Tariff No. 55.28.0, in providing that Enterprise TEPPCO will no longer accept nominations for the transportation of jet fuel or distillates, violates the Settlement Agreement signed by Enterprise TEPPCO in Docket No. IS12–203–000 and approved by the Commission via letter order on May 31, 2013. *See Enterprise TE Products Pipeline Company LLC,* 143 FERC ¶ 61,197 (2013).

As Enterprise TEPPCO does not list a current contact person on the Commission's list of Corporate Officials, Complainants certify that copies of the complaint were served on the persons listed as the Issuer and Compiler of Enterprise TEPPCO's Tariff No. 55.28.0.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 28, 2013.

Dated: June 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14887 Filed 6–20–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD13–7–000]

Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) staff will hold a technical conference on centralized capacity markets in Regional Transmission Organizations and Independent System Operators (RTOs/ISOs) (centralized capacity markets). The technical conference will take place on September 25, 2013 beginning at 9:00 a.m. and ending at approximately 5:00 p.m. The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. All interested persons are invited to participate at the conference. Commission members may participate in the conference.

The purpose of the technical conference is to consider how current centralized capacity market rules and structures are supporting the procurement and retention of resources necessary to meet future reliability and operational needs. Since their establishment, centralized capacity markets have continued to evolve. Meanwhile, the mix of resources is also evolving in response to changing market conditions, including low natural gas prices, state and federal policies encouraging the entry of renewable resources and other specific technologies, and the retirement of aging generation resources. This changing resource mix may result in future reliability and operational needs that are different than those of the past. In addition, some states have pursued individual resource adequacy policies to ensure the development of new resources in particular areas or with particular characteristics, and questions

have been raised as to how those individual policies can be accommodated in centralized capacity markets.

The Commission has addressed a number of these issues in specific cases, based on the facts and circumstances presented in a given case and the particular centralized capacity market design implemented by individual regions. This technical conference will provide an opportunity to review at a high level the centralized capacity market rules and structures, and will examine how these markets are accomplishing their intended goals and objectives through a competitive, market-based process. Recognizing and respecting differences across the markets, the technical conference will focus on the goals and objectives of existing centralized capacity markets (*e.g.,* resource adequacy, long-term price signals, fixed-cost recovery, etc.) and examine how specific design elements are accomplishing existing and emerging goals and objectives (*e.g.,* forward period, commitment period, product definition and specificity, market power mitigation, etc.).

A supplemental notice will be issued prior to the technical conference with further details regarding the agenda and organization of the technical conference, as well as information regarding interest in speaking at the technical conference. Those interested in attending the technical conference are encouraged to register at the following Web page: *https://www.ferc.gov/whats-new/registration/cap-markets-09-25-13-form.asp*

The technical conference will not be transcribed. However, there will be a free webcast of the conference. The webcast will allow persons to listen to the technical conference, but not participate.

Anyone with Internet access who wants to listen to the conference can do so by navigating to *www.ferc.gov's* Calendar of Events and locating the technical conference in the Calendar. The technical conference will contain a link to its webcast. The Capitol Connection provides technical support for the webcast and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call 703–993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For more information about the technical conference, please contact:

Shiv Mani (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8240, *Shiv.Mani@ferc.govmailto:*

Eric Eversole (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8697, *Eric.Eversole@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov.*

Dated: June 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14886 Filed 6–20–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14513–000]

Idaho Irrigation District; New Sweden Irrigation District; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 19, 2013, the Idaho and New Sweden Irrigation Districts, filed a joint application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the County Line Road Hydroelectric Project (County Line Road Project or project) to be located on the Snake River near Idaho Falls, in Jefferson and Bonneville counties, Idaho. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of two developments, the Idaho Canal and the Great Western Canal. Both developments would utilize an existing 840-foot-long, 10-foot-high concrete overflow weir impounding a reservoir with a surface area of 30 acres and a storage capacity of 250-acre-feet at a maximum surface elevation of 4,765 feet mean sea level. The two developments would also include the following new facilities:

Idaho Canal Development

(1) A 70-foot-wide concrete diversion structure with seven, 8-foot-wide, 5-foot-high steel head gates to divert water from the Snake River; (2) a 3.1-mile-long, 65 to 75-foot-wide, 8 to 10-foot-deep canal extending between the head gates and the powerhouse; (3) a gate structure in the canal to divert flows to the powerhouse while maintaining irrigation flows; (4) a powerhouse containing a 1.2-megawatt (MW) Kaplan turbine; (5) a tailrace canal; (6) a gated overflow spillway to pass flows around the powerhouse; (7) a 2,500-foot-long, 12.5-kilovolt (kV) transmission line extending to a distribution line owned by Rocky Mountain Power; (8) a switchyard; and (9) appurtenant facilities.

Great Western Canal Development

(1) An 80-foot-wide-concrete diversion structure with four, 13-foot-wide, 5-foot-high steel radial head gates to divert water from the Snake River; (2) a 3.5-mile-long, 50 to 100-foot-wide, 8 to 10-foot-deep canal extending between the head gates and the powerhouse; (3) a gate structure in the canal to divert flows to the powerhouse while maintaining irrigation flows; (4) a powerhouse containing a 1.3–MW Kaplan turbine; (5) a tailrace canal; (6) a gated overflow spillway to pass flows around the powerhouse; (7) a 500-foot-long, 12.5-kV transmission line extending to a distribution line owned by Rocky Mountain Power; (8) a switchyard; and (9) appurtenant facilities.

The estimated annual generation of the County Line Road Project would be 18.3 gigawatt-hours. The project would be partially located on 0.5 acres of federal lands managed by the Bureau of Land Management.

Applicant Contact: Mr. Alan Kelsch, Chairman, Idaho Irrigation District, 496 E. 14th Street, Idaho Falls, Idaho 83404; phone: (208) 522–2356.

Mr. Louis Thiel, Chairman, New Sweden Irrigation District, 2350 W. 17th Street, Idaho Falls, Idaho 83402; phone: (208) 523–0175.

FERC Contact: John Matkowski; phone: (202) 502–8576.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of

intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14513) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14888 Filed 6–20–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9009–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/10/2013 Through 06/14/2013 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at *http://www/epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20130171, Final EIS, BR, CA, Bunker Hill Groundwater Basin, Riverside Corona Feeder Project, Review Period Ends: 07/22/2013, Contact: Amy Witherall 951–695–5310.

EIS No. 20130172, Final Supplement, USACE, MA, Boston Harbor Deep Draft Navigation Improvement Project, Review Period Ends: 07/22/2013, Contact: Mike Keegan 978–318–8087.

EIS No. 20130173, Draft EIS, USA, AK, Fort Wainwright Disposition of Hangars 2 and 3, Comment Period Ends: 08/05/2013, Contact: Lawrence Hirai 210–466–1594.

EIS No. 20130174, Draft EIS, FERC, TX, Toledo Bend Hydroelectric Project No. 2305–036, Comment Period Ends: 08/05/2013, Contact: Alan Mitchnick 202–502–6074.

EIS No. 20130175, Draft EIS, BIA, MT, Proposed Strategies to Benefit Native Species by Reducing the Abundance of Lake Trout in Flathead Lake, Comment Period Ends: 08/05/2013, Contact: Barry Hansen 406–883–2888.

EIS No. 20130176, Draft EIS, APHIS, TX, Cattle Fever Tick Eradication Program—Tick Control Barrier, Comment Period Ends: 08/05/2013, Contact: Michelle Gray 301–851–3186.

EIS No. 20130177, Final EIS, USFS, MT, Wild Cramer Forest Health and Fuels Reduction Project, Flathead National Forest, Review Period Ends: 08/05/2013, Contact: Michele Draggoo 406–387–3827.

Amended Notices

EIS No. 20130146, Final EIS, USFS, CA, Whisky Ridge Ecological Restoration Project, Review Period Ends: 07/15/2013, Contact: Dean A. Gould 559–297–0706. Revision to FR Notice Published 5/31/2013; Change Review Period from 7/1/2013 to 7/15/2013.

Dated: June 18, 2013.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2013–14927 Filed 6–20–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application for a $63 million loan guarantee to support the export of approximately $74 million in U.S. semiconductor manufacturing equipment to a dedicated foundry in China. The U.S. exports will enable the dedicated foundry to increase existing 300mm (non-DRAM) production capacity of logic semiconductors by approximately 9,000 wafers per month. Available information indicates that this new foreign production will be consumed globally. Interested parties may submit comments on this transaction by email to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue NW., Room 442, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Koro Nuri,

Deputy General Counsel (Acting).

[FR Doc. 2013–14840 Filed 6–20–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities: Submission for OMB Review; Comment Request Re Application for Consent To Reduce or Retire Capital

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity, as required by the Paperwork Reduction Act of 1995 (4 U.S.C. chapter 35), to comment on renewal of an existing information collection as required by the PRA. On April 16, 2012 (78 FR 22544), the FDIC solicited public comment for a 60-day period on renewal without change of its ''Application for Consent to Reduce or Retire Capital'' information collection (OMB No. 3064–0079). One comment was received. The commenter expressed support for the information collection as necessary for the FDIC's performance of its statutory functions. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before July 22, 2013.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *Email: comments@fdic.gov.*
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, 550 17th

Street NW., Room NY–5050, Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about this information collection, please contact Leneta G. Gregorie, by telephone at (202) 898–3719 or by mail at the address identified above. In addition, copies of the forms contained in the collection can be obtained at the FDIC's Web site: *http://www.fdic.gov/regulations/laws/federal/notices.html*.

SUPPLEMENTARY INFORMATION:

The FDIC is requesting OMB approval to renew the following information collection:

Title: Application for Consent to Reduce or Retire Capital.

OMB Number: 3064–0079.

Form Number: None.

Estimated Number of applications: 64.

Burden per application: 1 hour.

Total annual burden: 64 hours.

General Description of Collection: This collection requires insured state nonmember banks that propose to change their capital structure to submit an application containing information about the proposed change in order to obtain FDIC's consent to reduce or retire capital. The requirements are set forth in section 18(i) of the Federal Deposit Insurance Act (12 U.S.C. 1828(i)) and Part 303 of the FDIC's regulations (12 CFR 303.241). The FDIC evaluates the information contained in the letter application in relation to statutory considerations and makes a decision to grant or to withhold consent. The statutory considerations include the financial history and condition of the bank; the adequacy of its capital structure; its future earnings prospects; the general character and fitness of its management; the convenience and needs of the community to be served; and, whether or not its corporate powers are consistent with the purpose of the Act.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 18th day of June, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–14883 Filed 6–20–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

*******Venedom-Miami, LLC (NVO & OFF), 6162 NW 74th Avenue, Miami, FL 33166, Officers: Jose Crisostomo, Manager (QI), Yadira Canate, Managing Member, Application Type: New NVO & OFF License.

Allyn International Services, Inc. (OFF), 13391 McGregor Blvd., Fort Myers, FL 33919, Officers: Daniel R. Chrovian, Vice President (QI), Allen Trevett, CEO, Application Type: New OFF License.

A-Logixtic Group, LLC (NVO), 600 Kenrick Drive, C–16, Houston, TX 77060, Officers: Naeem Iqbal, Manager Member (QI), Erika T. Veguez, Manager Member, Application Type: New NVO License.

Auto Export Shipping, Inc. dba AES (NVO), One Slater Drive, Elizabeth, NJ 07206, Officers: Diana F. Tigreros, Assistant Secretary (QI), Andrea Amico, President, Application Type: QI Change.

Blue Carrier Line Inc. (NVO & OFF), 19920 Foxwood Forest Blvd., Suite 401, Humble, TX 77338, Officer: Mary McKenna-O'Brien (QI), Application Type: New NVO & OFF License.

Caicos Caribbean Line, Inc. (NVO & OFF), 9999 NW 89th Avenue, Bay 18,19,20, Medley, FL 33178, Officer: Joanne M. Tyson, Managing Member (QI), Application Type: Business Structure Change to Caicos Caribbean Lines, LLC.

F.E.I. Logistics, Inc. (NVO), 1970 NW 70th Avenue, Miami, FL 33126, Officers: Karin Yocum, President (QI), Jason Sirjoo, Director, Application Type: New NVO License.

Felise Langi dba SF Enterprises (NVO & OFF), 2525 Mandela Parkway, Oakland, CA 94607, Officers: Felise Langi, Chief Executive Member (QI), Malia I. Langi, Member, Application Type: Business Structure Change to SF Enterprises & Logistics, LLC.

GB America, LLC (NVO & OFF), 18881 Von Karman Avenue, Suite 1450, Irvine, CA 92612, Officer: Jo Ning Huang, Managing Member, Application Type: New NVO & OFF License.

Shiner Electrical Trading Company, LLC. (OFF), 391 Curtner Avenue, Suite #1, Palo Alto, CA 94306, Officer: Xin You, Member/Manager (QI), Application Type: New OFF License.

Sunset Transportation, Inc. (NVO & OFF), 11325 Concord Village Avenue, Saint Louis, MO 63123, Officers: Casimera Tracy, Vice President (QI), James A. Williams, CEO, Application Type: QI Change.

Thomas Griffin International, Inc. dba Sea Lion Ocean Freight (NVO), 15903 Kent Ct., Tampa, FL 33647, Officer: Thomas L. Griffin, President (QI), Application Type: Add Additional Trade Name RV Shipping.

Ventech Inc. dba TDT Cargo (NVO & OFF), 7774 NW. 46th Street, Miami, FL 33166, Officers: Daniela Gonzalez, Vice President (QI), Juan C. Tovar, President, Application Type: New NVO & OFF License.

William's Worldwide Shipping & Trading, Inc. (NVO), 1177 Utica Avenue, Brooklyn, NY 11203, Officer: Michelle Williams Libert, President (QI), Application Type: New NVO License.

XPI Services, LLC (NVO & OFF), 2102 Ranch Road, Sachse, TX 75048, Officer: Roger Soudir, Managing Member (QI), Marieanne Soudir, Member, Application Type: New NVO & OFF License.

Dated: June 17, 2013.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–14814 Filed 6–20–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 8, 2013.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Charlotte Aldinger and Jeri Haberstroh,* both of Mott, North Dakota, as trustees/administrators, to retain voting shares of the Commercial Bank of Mott Employee Stock Ownership Plan, and thereby indirectly retain voting shares of Commercial Bank of Mott, both in Mott, North Dakota.

2. *Gale M. Hoese,* individually, and with Todd Hoese, Waconia, Minnesota, David Hoese, Jeremy Hoese, Tamara Hoese, Jon Hoese, Chad Hoese, all of Glencoe, Minnesota, David Schornack, and Denise Schornack, both of Perham, Minnesota, as a group acting in concert, to acquire voting shares of Flagship Financial Group, Inc., Eden Prairie, Minnesota, and thereby indirectly acquire voting shares of Flagship Bank Minnesota, Wayzata, Minnesota.

Board of Governors of the Federal Reserve System, June 18, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–14845 Filed 6–20–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 18, 2013.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Prudential Bancorp, Inc.,* Philadelphia, Pennsylvania; to become a bank holding company by merging with *Prudential Mutual Holding Company, and Prudential Bancorp, Inc. of Pennsylvania,* both in Philadelphia, Pennsylvania; and thereby acquire 100 percent of the voting shares of Prudential Saving Bank, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *FBDC Financial Corp.,* Fort Payne, Alabama; to become a bank holding company upon the conversion of its savings association, First Fidelity Bank, Fort Payne, Alabama, to a state-chartered bank, operating as First Federal Bank, Fort Payne, Alabama.

Board of Governors of the Federal Reserve System, June 18, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–14844 Filed 6–20–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Office for State, Tribal, Local and Territorial Support (OSTLTS); Meeting

In accordance with Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of November 5, 2009, and September 23, 2004, Consultation and Coordination with Indian Tribal Governments, CDC/Agency for Toxic Substances and Disease Registry (ATSDR), announces the following meeting and Tribal Consultation Session:

Name: Tribal Advisory Committee (TAC) Meeting and 10th Biannual Tribal Consultation Session.

Times and Dates:

8:00 a.m.–5:00 p.m., August 12, 2013 (TAC Meeting)

8:00 a.m.–5:00 p.m., August 13, 2013 (10th Biannual Tribal Consultation Session)

Place: The TAC Meeting and Tribal Consultation Session will be held at CDC Headquarters, 1600 Clifton Road, NE., Global Communications Center, Auditorium B2, Atlanta, Georgia 30333.

Status: The meetings are being hosted by CDC/ATSDR and are open to the public.

Purpose: In 2011–2012, CDC began revising its existing Tribal Consultation Policy (issued in 2005) with the primary purpose of providing guidance across the agency to work effectively with American Indian/Alaska Native (AI/AN) tribes, communities, and organizations to enhance AI/AN access to CDC resources and programs. Within the CDC Consultation Policy, it is stated that CDC will conduct government-to-government consultation with elected tribal officials or their authorized representatives before taking actions and/or making decisions that affect them. Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information and opinion among parties that leads to mutual understanding and comprehension. CDC believes that consultation is integral to a deliberative process that results in effective

collaboration and informed decision making with the ultimate goal of reaching consensus on issues. Although formal responsibility for the agency's overall government-to-government consultation activities rests within the CDC Office of the Director (OD), other CDC Center, Institute, and Office (CIO) leadership shall actively participate in TAC meetings and HHS-sponsored regional and national tribal consultation sessions as frequently as possible.

Matters to Be Discussed: The TAC will convene their advisory committee meeting with discussions and presentations from various CDC senior leaders on activities and areas identified by TAC members and other tribal leaders as priority public health issues. The following topics are scheduled for presentation and discussion during the TAC Meeting; however, discussion is not limited to these topics: Native specimens, direct assistance and Epi-Aids, success stories, and disease specific topics.

The 10th Biannual Tribal Consultation Session will engage CDC senior leadership from the CDC OD and various CDC CIOs. Sessions that will be held during the Tribal Consultation include the following: A listening session with CDC's director, roundtable discussions with CDC senior leadership, and an opportunity for tribal testimony.

Additional opportunities will be provided during the Consultation Session for tribal testimony. Tribal Leaders are encouraged to submit written testimony by 12:00 a.m., EST on July 19, 2013, to Kimberly Cantrell, Deputy Associate Director for Tribal Support, OSTLTS, via mail to 4770 Buford Highway NE., MS E–70, Atlanta, Georgia 30341 or email to *tribalconsult@cdc.gov.* Depending on the time available, it may be necessary to limit the time of each presenter.

The agenda is subject to change as priorities dictate.

Information about the TAC, CDC's Tribal Consultation Policy, and previous meetings may be referenced on the following web link: *http://www.cdc.gov/tribal.*

Contact Person For More Information: April R. Taylor, Public Health Analyst, CDC/OSTLTS, via mail to 4770 Buford Highway NE., MS E–70, Atlanta, Georgia 30341 or email to *ARTaylor@cdc.gov.*

The Director, Management Analysis and Services Office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–14779 Filed 6–20–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns NIOSH Cooperative Agreement Research to Aid Recovery from Hurricane Sandy, Request for Applications (RFA) OH13–002, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 1:00 p.m.–5:00 p.m., August 8, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''NIOSH Cooperative Agreement Research to Aid Recovery from Hurricane Sandy RFA OH13–002.''

Contact Person for More Information: Joan Karr, Ph.D., Scientific Review Officer, CDC/NIOSH 1600 Clifton Road, Mailstop E–74, Atlanta, Georgia 30333, Telephone: (404)498–2506.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–14782 Filed 6–20–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC)

Correction: This notice was published in the **Federal Register** on June 11, 2013, Volume 78, Number 112, Pages 35036–35037. The closing date for receipt of nominations was inadvertently omitted. Nominations must be submitted (postmarked or electronically received) by July 26, 2013.

Contact Person for More Information: Paul Middendorf, Senior Health Scientist, 1600 Clifton Rd. NE., MS: E–20, Atlanta, GA 30329; telephone (404) 498–2548 (this is not a toll-free number); email: *pmiddendorf@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–14781 Filed 6–20–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10116, CMS–R–245, CMS–1572, CMS–250–254, CMS–379, CMS–4040, CMS–10174, CMS–10261, and CMS–R–285]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed

extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 20, 2013.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10116 Conditions for Payment of Power Mobility Devices, including Power Wheelchairs and Power-Operated Vehicles.

CMS–R–245 Medicare and Medicaid Programs OASIS Collection Requirements as Part of the CoPs for HHAs and Supp. Regs. in 42 CFR 48.55, 484.205, 484.245, 484.250.

CMS–1572 Home Health Agency Survey and Deficiencies Report.

CMS–250–254 Medicare Secondary Payer Information Collection and Supporting Regulations.

CMS–379 Financial Statement of Debtor and Supporting Regulations.

CMS–4040 Request for Enrollment in Supplementary Medical Insurance.

CMS–10174 Collection of Prescription Drug Event Data from Contracted Part D Providers for Payment.

CMS–10261 Part C Medicare Advantage Reporting Requirements and Supporting Regulations.

CMS–R–285 Request for Retirement Benefit Information.

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Conditions for Payment of Power Mobility Devices, including Power Wheelchairs and Power-Operated Vehicles; *Use:* We are renewing our request for approval for the collection requirements associated with the final rule, CMS–3017–F (71 FR 17021), which published on April 5, 2006, and required a face-to-face examination of the beneficiary by the physician or treating practitioner, a written prescription, and receipt of pertinent parts of the medical record by the supplier within 45 days after the face-to-face examination that the durable medical equipment (DME) suppliers maintain in their records and make available to CMS and its agents upon request. *Form Number:* CMS–10116 (OCN: 0938–0971); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 90,521; *Number of Responses:* 173,810; *Total Annual Hours:* 34,762. (For policy questions regarding this collection contact Susan Miller at 410–786–2118.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* OASIS Collection Requirements as Part of the CoPs for HHAs and Supporting Regulations; *Use:* The OASIS data set is currently mandated for use by Home Health Agencies (HHAs) as a condition of participation (CoP) in the Medicare program. Since 1999, the Medicare CoPs have mandated that HHAs use the OASIS data set when evaluating adult non-maternity patients receiving skilled services. The OASIS is a core standard assessment data set that agencies integrate into their own patient-specific, comprehensive assessment to identify each patient's need for home care that meets the patient's medical, nursing, rehabilitative, social, and discharge planning needs. *Form Number:* CMS–R–245 (OCN: 0938–0760); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 12,014; *Total Annual Responses:* 17,268,890; *Total Annual Hours:* 15,305,484. (For policy questions regarding this collection contact Robin Dowell at 410–786–0060.)

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Home Health Agency Survey and Deficiencies Report; *Use:* In order to participate in the Medicare Program as a Home Health Agency (HHA) provider, the HHA must meet federal standards. This form is used to record information and patients' health and provider compliance with requirements and to report the information to the federal government. *Form Number:* CMS–1572 (OCN: 0938–0355); *Frequency:* Yearly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 3,830; *Total Annual Responses:* 3,830; *Total Annual Hours:* 958. (For policy questions regarding this collection contact Patricia Sevast at 410–786–8135.)

4. *Type of Information Collection Request:* Reinstatement without change

of a previously approved collection; *Title of Information Collection:* Medicare Secondary Payer Information Collection and Supporting Regulations; *Use:* We are seeking to renew approval to collect information from beneficiaries, providers, physicians, insurers, and suppliers on health insurance coverage that is primary to Medicare. Collecting this information allows us to identify those Medicare beneficiaries who are in situations where Medicare is statutorily required to be a secondary payer (MSP), thereby safeguarding the Medicare Trust Fund. Specifically, we use the information to accurately process and pay Medicare claims and to make necessary recoveries in accordance with § 1862(b) of the Act (42 U.S.C. 1395y(b)). If an active MSP situation is identified and Medicare is inappropriately billed as primary, the claim will be rejected. The hospitals, other providers, physicians, pharmacies, and suppliers use the information collected (and furnished to them on the denial) to properly bill the appropriate primary payer. Completing an MSP questionnaire and making an accurate MSP determination helps hospitals, other providers, physicians, pharmacies, and suppliers to bill correctly the first time, saving the Medicare Program money and affording Medicare beneficiaries an enhanced level of customer service (which, again, is particularly important in Part D due to the real-time adjudication of claims and the complicated nature of its benefit administration). Insurers, underwriters, third party administrators, and self-insured/self-administered employers use the information to ensure compliance with the law by refunding any identified mistaken payments to Medicare. *Form Number:* CMS–250–254 (OCN: 0938–0214); *Frequency:* Occasionally; *Affected Public:* Individuals and Households, Private Sector, State, Local or Tribal Governments; *Number of Respondents:* 143,070,217; *Total Annual Responses:* 143,070,217; *Total Annual Hours:* 1,788,057. (For policy questions regarding this collection contact Ward Marsh at 410–786–6473.)

5. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Financial Statement of Debtor and Supporting Regulations; *Use:* The form CMS–379 is used to collect financial information which is needed to evaluate requests from physicians and suppliers to pay indebtedness under an extended repayment schedule, or to compromise a debt less than the full amount. Normally, when a Medicare Administrative Contractor (MAC) overpays a physician or supplier, the overpayment is associated with a single claim, and the amount of the overpayment is moderate. In these cases, the physician/supplier usually refunds the overpaid amount in a lump sum. Alternatively, the MAC may recoup the overpaid amount against future payments. A recoupment is the recovery by Medicare of any outstanding Medicare debt by reducing present or future Medicare payments and applying the amount withheld to the indebtedness. The recoupment can be made only if the physician or supplier accepts assignment since the MAC makes payment to the physician or supplier only on assigned claims.

Sometimes, however, an overpayment to a physician or supplier is exceptionally large, and it cannot be recovered in the normal fashion. The large overpayment usually results from aberrant billing practices, such as billing for more expensive services than were rendered. This could be discovered during routine review of a statistically valid sample of claims. The physician or supplier may be unable to refund a large overpaid amount in a single payment. The MAC cannot recover the overpayment by recoupment if the physician/supplier does not accept assignment of future claims, or is not expected to file future claims because of going out of business, illness or death. In these unusual circumstances, the MAC has authority to approve or deny extended repayment schedules up to 12 months, or may recommend to that we approve up to 60 months. Before the MAC takes these actions, the MAC will require full documentation of the physician's or supplier's financial situation. Thus, the physician or supplier must complete form CMS–379. *Form Number:* CMS–379 (OCN: 0938–0270); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1,000. (For policy questions regarding this collection contact Ronke Fabayo at 410–786–4460.)

6. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Request for Enrollment in Supplementary Medical Insurance; *Use:* Form CMS–4040 (and CMS–4040SP) is used to establish entitlement to and enrollment in Medicare Part B for beneficiaries who file for Part B only. The collected information is used to determine entitlement for individuals who meet the requirements in section 1836(2) of the Social Security Act as well as the entitlement of the applicant or their spouses to an annuity paid by OPM for premium deduction purposes. *Form Number:* CMS–4040 (OCN: 0938–0245); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 2,500. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843.)

7. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Collection of Prescription Drug Event Data from Contracted Part D Providers for Payment; *Use:* The information users would include Pharmacy Benefit Managers, third party administrators and pharmacies and prescription drug plans, Medicare Advantage plans that offer integrated prescription drug and health care coverage, Fallbacks and other plans that offer coverage of outpatient prescription drugs under the Medicare Part D benefit to Medicare beneficiaries. The data is used primarily for payment, but is also used for claim validation as well as for other legislated functions such as quality monitoring, program integrity, and oversight. *Form Number:* CMS–10174 (OCN: 0938–0982); *Frequency:* Monthly; *Affected Public:* Private sector (business or other for-profits and not-for-profit institutions); *Number of Respondents:* 747; *Total Annual Responses:* 947,881,770; *Total Annual Hours:* 1,896. (For policy questions regarding this collection contact Ivan Iveljic at 410–786–3312.)

8. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations; *Use:* There are a number of information users of Part C reporting, including CMS central and regional office staff that use this information to monitor health plans and to hold them accountable for their performance, researchers, and other government agencies such as GAO. Health plans can use this information to measure and benchmark their performance. We intend to make some of these data available for public reporting as ''display measures'' in 2013. *Form Number:* CMS–10261 (OCN: 0938–1054); *Frequency:* Yearly and semi-annually; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 588; *Total Annual Responses:* 6,715; *Total Annual Hours:* 200,918. (For policy questions

regarding this collection contact Terry Lied at 410–786–8973.)

9. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Request for Retirement Benefit Information; *Use:* Section 1818(d)(5) of the Social Security Act provides that former state and local government employees (who are age 65 or older, have been entitled to Premium Part A for at least 7 years, and did not have the premium paid for by a state, a political subdivision of a state, or an agency or instrumentality of one or more states or political subdivisions) may have the Part A premium reduced to zero. These individuals must also have 10 years of employment with the state or local government employer or a combination of 10 years of employment with a state or local government employer and a non-government employer. Form CMS–R–285 is an essential part of the process of determining whether an individual qualifies for the premium reduction. The Social Security Administration will use this information to help determine whether a beneficiary meets the requirements for reduction of the Part A premium. *Form Number:* CMS–R–285 (OCN: 0938–0769). *Frequency:* Once. *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 125. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843.)

Dated: June 18, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–14878 Filed 6–20–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–460]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 22, 2013.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 *or* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Participating Physician or Supplier Agreement; *Use:* Section 1842(h) of the Social Security Act permits physicians and suppliers to voluntarily participate in Medicare Part B by agreeing to take assignment on all claims for services to Medicare beneficiaries. The law also requires that the Secretary provide specific benefits to the physicians, suppliers and other persons who choose to participate. Form CMS–460 is the agreement by which the physician or supplier elects to participate in Medicare. The collected information is used by Medicare contractors to provide the benefits the law provides for participating entities and to enable contractors to enforce the Medicare limiting charge for physicians, suppliers and other persons who do not participate. It is also used by Medicare beneficiaries to assist them in locating physicians who will accept Medicare assignment on claims for services and therefore save them money. In addition, we use the form to gauge the effectiveness of efforts to increase participation in Medicare. *Form Number:* CMS–460 (OCN: 0938–0373); *Frequency:* Yearly; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 120,000; *Total Annual Responses:* 120,000; *Total Annual Hours:* 30,000. (For policy questions regarding this collection contact April Billingsley at 410–786–0140.)

Dated: June 18, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–14870 Filed 6–20–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0306]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Administrative Detention and Banned Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Administrative Detention and Banned Medical Devices'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *Daniel.Gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On February 8, 2013, the Agency submitted a proposed collection of information entitled ''Administrative Detention and Banned Medical Devices'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0114. The approval expires on April 30, 2016. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: June 17, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14810 Filed 6–20–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0717]

Agency Information Collection Activities; Proposed Collection; Comment Request; Evaluation of the Food and Drug Administration's General Market Youth Tobacco Prevention Campaigns

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Evaluation of FDA's General Market Youth Tobacco Prevention Campaigns.

DATES: Submit either electronic or written comments on the collection of information by August 20, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Evaluation of FDA's General Market Youth Tobacco Prevention Campaigns (OMB Control Number—0910—New)

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to grant FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health and to reduce tobacco use by minors. Section 1003(d)(2)(D) of the FD&C Act (21 U.S.C. 393(d)(2)(D)) supports the development and implementation of FDA public education campaigns related to tobacco use. Accordingly, FDA is currently developing and implementing youth-targeted public education campaigns to help prevent tobacco use among youth and thereby reduce the public health burden of tobacco. The campaigns will feature televised advertisements along with complementary ads on radio, on the Internet, in print, and through other forms of media.

In support of the provisions of the Tobacco Control Act that require FDA to protect the public health and to reduce tobacco use by minors, FDA requests OMB approval to collect information needed to evaluate FDA's general market youth tobacco prevention campaigns. Comprehensive evaluation of FDA's public education campaigns is needed to ensure campaign messages are effectively received, understood, and accepted by those for whom they are intended. Evaluation is an essential organizational practice in public health

and a systematic way to account for and improve public health actions.

FDA plans to conduct two studies to evaluate the effectiveness of its youth tobacco prevention campaigns: (1) An outcome evaluation study and (2) a media tracking survey. The timing of these studies will be designed to follow the multiple, discrete waves of media advertising planned for the campaigns.

- *Outcome Evaluation Study*

The outcome evaluation study consists of an initial baseline survey of youth aged 11 to 16 before the campaigns launch. The baseline will be followed by three longitudinal followup surveys of the same youth at approximate 8 month intervals after the campaigns launch. As the cohort will be aging over this time period, the data collected throughout the study will reflect information from youth aged 11 to 18. Information will be collected about youth awareness of and exposure to campaign advertisements and about youth knowledge, attitudes, and beliefs related to tobacco use. In addition, the surveys will measure tobacco use susceptibility and current use. Information will also be collected on demographic variables including age, sex, race/ethnicity, grade level, and primary language. Finally, a baseline survey will also be conducted with the parent or legal guardian of each youth baseline survey participant in order to collect data on household characteristics and media use.

- *Media Tracking Survey*

The media tracking survey consists of assessments of youth aged 13 to 18 conducted at 4 months, 12 months, and 20 months postlaunch. The tracking survey will assess awareness of the campaigns and receptivity to campaign messages. These data will provide critical evaluation feedback to the campaigns and will be conducted with sufficient frequency to match the cyclical patterns of media advertising and variation in exposure to allow for mid-campaign refinements.

All information will be collected through in-person and Web-based questionnaires. Youth respondents will be recruited from two sources: (1) A probability sample drawn from 90 U.S. media markets gathered using an address-based postal mail sampling of U.S. households for the outcome evaluation study and (2) an Internet panel for the media tracking survey. Participation in the studies is voluntary.

The information collected is necessary to inform FDA's efforts and measure the effectiveness and public health impact of the campaigns. Data from the media tracking survey will be used to estimate awareness of and exposure to the campaigns among youth nationally as well as among youth in geographic areas targeted by the campaign. Data from the outcome evaluation study will be used to examine statistical associations between exposure to the campaigns and subsequent changes in specific outcomes of interest, which will include knowledge, attitudes, beliefs, and intentions related to tobacco use, as well as behavioral outcomes including tobacco use.

FDA's burden estimate is based on prior experience with in-person and Internet panel studies similar to the Agency's plan presented in this document. To obtain the target number of completed surveys (''completes'') for the outcome evaluation study, 55,695 youth respondents and their parent or legal guardian will be contacted through a screening and consent process. The estimated burden per response is 5 minutes (0.083), for a total of 4,623 hours. An estimated 12,940 youth will complete the Youth Baseline Questionnaire in order to yield 10,352 completes at the first followup, 8,281 completes at the second followup, and 6,625 completes at the third followup survey waves. The estimated burden per response is 30 minutes (0.5) for the baseline questionnaire, for a total of 6,470 hours. The estimated burden per response is 30 minutes (0.5) for each followup questionnaire, for a total of 5,176 burden hours for the first Followup Questionnaire, 4,141 hours for the second Followup Questionnaire, and 3,313 hours for the third Followup Questionnaire. The parent or legal guardian of youth recruited to complete the Youth Baseline Questionnaire will also complete a Parent Baseline Questionnaire with an estimate burden per response of 10 minutes (0.17), for a total of 2,200 hours.

To obtain the target number of completes for the media tracking survey, 40,000 respondents will be contacted for each survey wave through an online invitation. The estimated burden per response is 2 minutes (0.03), for a total of 1,200 hours for the first Media Tracking Screener, 1,200 hours for the second Media Tracking Screener, and 1,200 hours for the third Media Tracking Screener. An estimated 4,000 youth will be recruited to complete each of the three waves of the media tracking survey. The estimated burden per response is 30 minutes for each questionnaire, for a total of 2,000 hours for the first Media Tracking Questionnaire, 2,000 hours for the second Media Tracking Questionnaire, and 2,000 hours for the third Media Tracking Questionnaire.

The target number of completed campaign questionnaires for all respondents is 238,833. The total estimated burden is 35,523 hours. OMB approval is requested for 3 years.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
General Population	Screener and Consent Process (Youth and Parent).	55,695	1	55,695	0.083 (5 min.) ...	4,623
Youth aged 11–18 in the United States.	Outcome Evaluation Youth Baseline Questionnaire.	12,940	1	12,940	0.5 (30 min.)	6,470
	Outcome Evaluation Youth 1st Followup Questionnaire.	10,352	1	10,352	0.5 (30 min.)	5,176
	Outcome Evaluation Youth 2nd Followup Questionnaire.	8,281	1	8,281	0.5 (30 min.)	4,141
	Outcome Evaluation Youth 3rd Followup Questionnaire.	6,625	1	6,625	0.5 (30 min.)	3,313

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Parent of Youth Baseline Survey Participants.	Outcome Evaluation Parent Baseline Questionnaire.	12,940	1	12,940	0.17 (10 min.) ...	2,200
Youth aged 13–18 in the United States.	Screener	40,000	1	40,000	0.03 (2 min.)	1,200
	1st Media Tracking Questionnaire.	4,000	1	4,000	0.5 (30 min.)	2,000
	Screener	40,000	.....	40,000	0.03 (2 min.)	1,200
	2nd Media Tracking Questionnaire.	4,000	1	4,000	0.5 (30 min.)	2,000
	Screener	40,000	1	40,000	0.03 (2 min.)	1,200
	3rd Media Tracking Questionnaire.	4,000	1	4,000	0.5 (30 min.)	2,000
Total	.....	238,833	.....	.....	.....	35,523

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 17, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14809 Filed 6–20–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0719]

Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on Planning for the Effects of High Absenteeism To Ensure Availability of Medically Necessary Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection in the guidance on planning for the effects of high absenteeism to ensure availability of medically necessary drug products.

DATES: Submit either electronic or written comments on the collection of information by August 20, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–7726, *Ila.mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Planning for the Effects of High Absenteeism To Ensure Availability of Medically Necessary Drug Products—(OMB Control Number 0910–0675)—Extension

The guidance recommends that manufacturers of drug and therapeutic biological products and manufacturers of raw materials and components used in those products develop a written Emergency Plan (Plan) for maintaining an adequate supply of medically necessary drug products (MNPs) during an emergency that results in high employee absenteeism. The guidance discusses the issues that should be covered by the Plan, such as: (1) Identifying a person or position title (as well as two designated alternates) with the authority to activate and deactivate the Plan and make decisions during the emergency; (2) prioritizing the manufacturer's drug products based on medical necessity; (3) identifying actions that should be taken prior to an anticipated period of high absenteeism; (4) identifying criteria for activating the Plan; (5) performing quality risk assessments to determine which manufacturing activities may be reduced to enable the company to meet

a demand for MNPs; (6) returning to normal operations and conducting a post-execution assessment of the execution outcomes; and (7) testing the Plan. The guidance recommends developing a Plan for each individual manufacturing facility as well as a broader Plan that addresses multiple sites within the organization. For purposes of this information collection analysis, we consider the Plan for an individual manufacturing facility as well as the broader Plan to comprise one Plan for each manufacturer. Based on FDA's data on the number of manufacturers that would be covered by the guidance, we estimate that approximately 70 manufacturers will develop a Plan as recommended by the guidance (i.e., 1 Plan per manufacturer to include all manufacturing facilities, sites, and drug products), and that each Plan will take approximately 500 hours to develop, maintain, and update.

The guidance also encourages manufacturers to include a procedure in their Plan for notifying the Center for Drug Evaluation and Research (CDER) when the Plan is activated and when returning to normal operations. The guidance recommends that these notifications occur within 1 day of a Plan's activation and within 1 day of a Plan's deactivation. The guidance specifies the information that should be included in these notifications, such as which drug products will be manufactured under altered procedures, which products will have manufacturing temporarily delayed, and any anticipated or potential drug shortages. We expect that approximately two notifications (for purposes of this analysis, we consider an activation and a deactivation notification to equal one notification) will be sent to CDER by approximately two manufacturers each year, and that each notification will take approximately 16 hours to prepare and submit.

The guidance also refers to previously approved collections of information found in FDA regulations. Under the guidance, if a manufacturer obtains information after releasing an MNP under its Plan leading to suspicion that the product might be defective, CDER should be contacted immediately at *drugshortages@fda.hhs.gov* in adherence to existing recall reporting regulations (21 CFR 7.40; OMB control number 0910–0249), or defect reporting requirements for drug application products (21 CFR 314.81(b)(1)) and therapeutic biological products regulated by CDER (21 CFR 600.14) (OMB control numbers 0910–0001 and 0910–0458, respectively).

In addition, the following collections of information found in FDA current good manufacturing practice (CGMP) regulations in part 211 (21 CFR part 211) are approved under OMB control number 0190–0139. The guidance encourages manufacturers to maintain records, in accordance with the CGMP requirements (see, e.g., § 211.180) that support decisions to carry out changes to approved procedures for manufacturing and release of products under the Plan. The guidance states that a Plan should be developed, written, reviewed, and approved within the site's change control quality system in accordance with the requirements in §§ 211.100(a) and 211.160(a); execution of the Plan should be documented in accordance with the requirements described in § 211.100(b); and standard operating procedures should be reviewed and revised or supplementary procedures developed and approved to enable execution of the Plan.

FDA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Absenteeism guidance	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Notify FDA of Plan Activation and Deactivation	2	1	2	16	32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED RECORDKEEPING BURDEN [1]

Absenteeism guidance	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Develop Initial Plan	70	1	70	500	35,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 17, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14812 Filed 6–20–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0010]

Cooperative Agreement To Support the North Carolina State University, Prestage Department of Poultry Science and the Piedmont Research Station

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to receive and consider a single-source application for the award of a cooperative agreement in fiscal year 2013 (FY13) to the North Carolina State University, Prestage Department of Poultry Science and the Piedmont Research Station Poultry Unit located in Salisbury, NC. Egg-associated illness due to *Salmonella* is a major public health concern, with table eggs being the primary source of *Salmonella* Enteritidis. Therefore, an FDA priority is to implement preventative measures to reduce the vertical and horizontal transmission of *Salmonella* Enteritidis and other *Salmonella* serovars to table eggs and poultry products. The goal of

this collaborative project between FDA and the North Carolina State University, Prestage Department of Poultry Science and the Piedmont Research Station is to utilize a commercial research facility to parallel the transmission (vertical and horizontal) of *Salmonella* found within the egg-production industry and how alterations in physical feed characteristics and housing may influence vertical and horizontal transmission. Additionally, this study aims to examine how commercially utilized disinfection protocols affect horizontal transmission of *Salmonella* in alternative versus traditionally housed layer hens. Moreover, this study may reveal other serovars of *Salmonella* present within the commercial egg industry which may pose a potential health risk to consumers. While historically the concern over *Salmonella* has focused on *Salmonella* Enteritidis, there is a potential concern that other *Salmonella* serovars could be a source for egg-transmitted human salmonellosis. Hence, this study aims to investigate the occurrence, transmission, and virulence of varying *Salmonella* serovars.

DATES: Important dates are as follows:

1. The application due date is July 15, 2013.

2. The anticipated start date is September 2013.

3. The expiration date is July 16, 2013.

ADDRESSES: Submit electronic applications to: *http://www.grants.gov*. For more information, see section III of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT:

Scientific/Programmatic Contact: Ondulla Toomer, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 8301 Muirkirk Rd., MOD–1 (HFS–025), Laurel, MD 20708, 240–402–3430, email: *ondulla.toomer@fda.hhs.gov*.

Grants Management Contact: Kimberly Pendleton Chew, Office of Acquisitions and Grant Services, Food and Drug Administration, 5630 Fishers Lane, Rm. 2105 (HFA 500), Rockville, MD 20857, 301–827–9363, email: *kimberly.pendleton@fda.hhs.gov*.

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *www.fda.gov/food/newsevents/default.htm*.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

RFA–FD–13–031 93.103

A. Background

Egg-associated illness due to *Salmonella* is a major public health concern, with table eggs being the primary source of *Salmonella* Enteritidis. Infected individuals may suffer gastrointestinal distress, short-term or chronic arthritis, or even death.

Salmonella Enteritidis is transmitted vertically (due to bacterial infection of the reproductive organs infecting the yolk, albumen, and/or membranes) or horizontally (due to microbial contamination post-oviposition from environmental or cloacal contamination). Upon the horizontal transmission of *Salmonella,* the micro-organism penetrates the eggshell infecting the yolk, albumen, and egg membranes. Therefore, an FDA priority is to implement preventative measures to reduce the vertical and horizontal transmission of *Salmonella* Enteritidis and potentially other *Salmonella* serovars to table eggs and poultry products (tissues). Intensive genetic selection for enhanced egg production has altered the ability to resist microbial contamination within laying hen breeders. Thus, it is imperative that interventional strategies be studied to ensure the safety of egg and poultry products for consumption.

Various studies (Bjerrum et al., 2005; Huang et al., 2006, Santos, 2006) have demonstrated that increasing the grain particle size in the diet reduced the vertical transmission of *Salmonella.* Bjerrum et al. (2005) reported that broilers fed a finely ground pelleted corn diet had a higher *Salmonella* population in the gizzard than broilers fed a coarsely ground corn pelleted diet. In parallel, Huang et al. (2006) reported a higher incidence of *Salmonella Typhimurium* in the gizzard and cecal contents of broilers fed a finely ground corn pelleted diet, suggesting that feed structure may influence *Salmonella* colonization by altering the gastrointestinal microenvironment.

B. Research Objectives

Research objectives include utilizing a commercial research facility to parallel the transmission (vertical and horizontal) of *Salmonella* found within the egg production industry; indicating how alterations in physical feed characteristics and housing (traditional caging versus free-range) may influence vertical and horizontal transmission; and examining how commercially utilized disinfection protocols affect horizontal transmission of *Salmonella* in free-range versus traditionally housed layer hens. All research and microbiological analysis will be conducted at facilities housed at North Carolina State University, Prestage Department of Poultry Science and Piedmont Research Station, Salisbury, NC, using North Carolina State University Institutional Animal Care and Use Committee (IACUC) approved protocol #11–024–A. This cooperative agreement will provide support for collaborative research conducted between FDA–CFSAN–OARSA-Immunobiology and North Carolina State University, Prestage Department of Poultry Science utilizing the commercial research facility Piedmont Research Station to meet the following projected milestones:

1. Assess the routes of *Salmonella* transmission to eggs, egg and poultry products (tissues), and examine tissue colonization.

2. Assess the immunological responses of the layer hen to *Salmonella* challenge post- and pre-molting.

3. Examine the prevalence of differing *Salmonella* serovars in various environmental layer hen housing systems (conventional cage, enriched cage systems, and free-range).

4. Examine the effect of various nutritional intervention strategies (physical feed characteristics, antimicrobials, immuno-enhancing feed ingredients) on vertical transmission rates in a commercial-style environment.

5. Examine the use of differing disinfection protocols on the rates of horizontal transmission in various environmental layer hen housing systems (conventional cage, enriched cage systems, and free-range).

C. Eligibility Information

Competition is limited to the North Carolina State University, Prestage Department of Poultry Science and the Piedmont Research Station because FDA finds that the North Carolina State University Department of Poultry Science and the Piedmont Research Station are uniquely qualified to fulfill the objectives outlined in the proposed cooperative agreement.

The goal of this collaborative project is to utilize a commercial research facility to parallel the transmission (vertical and horizontal) of *Salmonella* found within the egg production industry and how alterations in physical feed characteristics and housing may influence vertical and horizontal transmission.

The Piedmont Research Station Poultry Unit is a unique facility that has housing for over 15,000 commercial layers, 8,000 broiler breeders, and incubation capacity to hatch more than 52,000 eggs at one time utilizing both

multistage and single-stage incubation. The Prestage Department of Poultry Science Research and Teaching Units in Raleigh, NC conduct research at the Piedmont Research Station. Research at both unit locations includes commercial layers, commercial broiler breeders, broilers, and commercial-style incubation. Piedmont Research Station routinely conducts the Layer Performance Management Test in North America, with studies in applied production practices and nutrition management. These facilities are able to evaluate the effects of a research project on a size and scale that mimics commercial poultry operations.

The North Carolina State University feed mill is a research and educational feed mill that is designed and equipped to manufacture a variety of feed mix characteristics, formulations, and feed forms. It is currently used by FDA for training purposes associated with the safe feed-safe food program, and is among the few research feed mills in the country that is associated with animal research facilities. The mill has all of the typical process equipment found in commercial feed mills, including an 8 ton/hr CPM hammer mill, 8 ton/hr RMS roller mill, micro bin-batching system, a 500 lb horizontal ribbon mixer, a 2 ton double-shaft ribbon mixer, a 1 ton/hr CPM pellet mill with counter-flow cooler, a 10 ton/hr Bliss pellet mill with counter-flow cooler, pellet screener, bagger, bulk ingredient bins, finished feed bins, and an automated computer-controlled batch mixing and process operation. This feed mill is able to manufacture feed of various feed ingredient grind size in mash or pellet forms.

While other academic institutions also have outstanding poultry and egg research programs, they do not have commercial style research facilities, feed mill, and resources to conduct large-scale commercial size research projects. Moreover, the North Carolina State University, Prestage Department of Poultry Science and Piedmont Research Facility are within close geographic proximity for collaboration with FDA's Department of Immunobiology. This will allow FDA's investigational scientists to travel by automobile on key experimental dates to initiate research experiments and to collect tissue and environmental samples. These samples will be transported within 24 hours back to FDA's Department of Immunobiology for microbiological testing and analysis.

II. Award Information/Funds Available

A. Award Amount

The Center for Food Safety and Applied Nutrition (CFSAN) intends to fund one award up to $50,000 total costs (direct plus indirect costs) for FY 2013. Future year amounts will depend on annual appropriations and successful performance.

B. Length of Support

The award will provide 1 year of support and include future recommended support for 4 additional years, contingent upon satisfactory performance in the achievement of project and program reporting objectives during the preceding year and the availability of Federal fiscal year appropriations.

III. Electronic Application, Registration, and Submission

Only electronic applications will be accepted. To submit an electronic application in response to this FOA, applicants should first review the full announcement located at *www.fda.gov/food/newsevents/default.htm*. (FDA has verified the Web site addresses throughout this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.) For all electronically submitted applications, the following steps are required.

- Step 1: Obtain a Dun and Bradstreet (DUNS) Number
- Step 2: Register With System for Award Management (SAM)
- Step 3: Obtain Username & Password
- Step 4: Authorized Organization Representative (AOR) Authorization
- Step 5: Track AOR Status
- Step 6: Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp*. Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp*. After you have followed these steps, submit electronic applications to: *http://www.grants.gov*.

Dated: June 17, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14824 Filed 6–20–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Request for Nominations for Voting and/or Nonvoting Consumer Representatives on Public Advisory Committees or Panels and Request for Notification From Consumer Organizations Interested in Participating in the Selection Process for Nominations for Voting and/or Nonvoting Consumer Representatives on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may either be self-nominated or may be nominated by a consumer organization. Nominations will be accepted for current vacancies and for those that will or may occur through December 2013.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to FDA (see **ADDRESSES**) by July 22, 2013, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by July 22, 2013.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be sent electronically to *CV@OC.FDA.GOV,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., WO32 Rm. 5129, Silver Spring Maryland 20993–0002, or by fax to 301–847–8640. Information about becoming a member of an FDA advisory committee can be obtained by

visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Dornette Spell-LeSane, Advisory Committee Oversight and Management Staff, Food and Drug Administration, White Oak Bldg. 32, 10903 New Hampshire Ave., Rm. 5129, Silver Spring, MD 20993–0002, 301–796–8224, email: *dornette.spelllesane@fda.hhs.gov.*

For questions relating to specific advisory committees or panels, contact the following persons listed in table 1:

TABLE 1—COMMITTEE CONTACT

Contact person	Committee/panel
Stephanie Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg 31, 10903 New Hampshire Ave., rm. 2408, Silver Spring, MD 20993–0002, 301–796–3693, FAX: 301–847–8533, email: *Stephanie.Bregansky@fda.hhs.gov*.	Anesthetic and Analgesic Drugs.
Diane Goyette, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg 31, 10903 New Hampshire Ave., rm. 2408, Silver Spring, MD 20993–0002, 301–796–9014, FAX: 301–847–8533, email: *Diane.Goyette@fda.hhs.gov*.	Anti-Infective Drugs.
Nicole Vesely, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg 31, 10903 New Hampshire Ave., rm. 2408, Silver Spring, MD 20993–0002, 301–796–0063, FAX: 301–847–8533, email: *Nicole.Vesely@fda.hhs.gov*.	Cardiovascular & Renal Drugs.
Cindy Hong, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg 31, 10903 New Hampshire Ave., rm. 2528, Silver Spring, MD 20993–0002, 301–796–0889, FAX: 301–847–8533, email: *Cindy.Hong@fda.hhs.gov*.	Pulmonary Allergy Drugs.
Jamie Waterhouse, Center for Devices and Radiological Devices, Food and Drug Administration, White Oak Bldg 66, 10903 New Hampshire Ave., rm. 1611, Silver Spring, MD 20993–0002, 301–796–3063, FAX: 301–847–8116, email: *Jamie.Waterhouse@fda.hhs.gov*.	Circulatory System Devices.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 2:

TABLE 2—COMMITTEE DESCRIPTION, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE TIME NEEDED

Committee/panel/areas of expertise needed	Current and upcoming vacancies	Approximate date needed
Anesthetic and Analgesic Drugs—Knowledgeable in the fields of anesthesiology, analgesics (such as abuse deterrent opioids, novel analgesics, and issues related to opioid abuse) epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Anti-Infective Drugs—Knowledgeable in the fields of infectious disease, internal medicine, microbiology, pediatrics, epidemiology or statistics, and related specialties.	1—Voting	December 1, 2013.
Cardiovascular and Renal Drugs—Knowledgeable in the fields of cardiology, hypertension, arrhythmia, angina, congestive heart failure, diuresis, and biostatistics.	1—Voting	July 1, 2013.
Pulmonary Allergy Drugs—Knowledgeable in the fields of pulmonary medicine, allergy, clinical immunology, and epidemiology or statistics.	1—Voting	June 1, 2013.
Circulatory System Devices—Knowledgeable in the safety and effectiveness of marked and investigational devices for use in the circulatory and vascular systems.	1 Non-Voting	July 1, 2013.

I. Functions

A. Anesthetic and Analgesic Drug Products

The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in anesthesiology and surgery and makes appropriate recommendations to the Commissioner of Food and Drugs.

B. Anti-Infective Drugs

The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders and makes appropriate recommendations to the Commissioner of Food and Drugs.

C. Cardiovascular and Renal Drugs

The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders and makes appropriate recommendations to the Commissioner of Food and Drugs.

D. Pulmonary-Allergy Drugs

The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms and makes appropriate recommendations to the Commissioner of Food and Drugs.

E. Certain Panels of the Medical Devices Advisory Committee

The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area: Advises on the classification or reclassification of devices into one of three regulatory categories; advises on any possible risks to health associated with the use of devices; advises on formulation of product development protocols; reviews premarket approval applications for medical devices; reviews guidelines and guidance documents; recommends exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advises

on the necessity to ban a device; and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner of Food and Drugs on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

II. Criteria for Members

Persons nominated for membership as consumer representatives on the committees or panels should meet the following criteria: (1) Demonstrate ties to consumer and community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committee on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or resume. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Potential candidates will be required to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

All nominations should include: A cover letter; a curriculum vitae or resume that includes the nominee's office address, telephone number, and email address; and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations also should specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination and is willing to serve as a member of the advisory committee or panel if selected.

The term of office is up to 4 years. FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and therefore, encourages nominations of appropriately qualified candidates from these groups.

Dated: June 17, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–14889 Filed 6–20–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal Health Town Hall Listening Session; Notice of Meeting

Name: Maternal Health Town Hall Listening Session.

Date and Time: August 27, 2013, 2:00 p.m.–3:30 p.m. (EST).

Place: Virtual via Webinar.

Status: The meeting is open to the public. The meeting will be hosted virtually through webinar and by phone. Participants will have an opportunity to interact with presenters via the chat function in the public comment section of the webinar system. In addition, there will be up to 100 phone lines available to individuals who choose to participate by phone. The phone lines will be made available on a first-come, first-served basis. To register for this meeting please go to: *http://learning.mchb.hrsa.gov/LiveWebcastDetail.asp?leid=333*. Registrations will be accepted through 5:00 p.m. EST on August 19, 2013. Call information for this meeting will be provided upon registration.

Purpose: The purpose of the meeting is to share and discuss proposed strategies and to solicit ideas in support of the National Maternal Health Initiative. The Town Hall Listening Session will serve as a platform to engage and obtain feedback from the public on HRSA's strategic thinking around a national strategy to reduce maternal morbidity and mortality, and improve the quality and safety of maternity care in the United States.

The desired outcomes of the meeting are:

I. To share with the public the Health Resources and Services Administration, Maternal and Child Health Bureau's (HRSA/MCHB): (1) Vision for promoting maternal health in the United States; (2) strategic direction for the National Maternal Health Initiative including mission, goals and objectives; and (3) identified priority areas to focus efforts to improve maternal health;

II. Enhance, guide, and strengthen HRSA's strategic thinking related to maternal health using input from maternal health experts, representatives of professional organizations, and the public at large.

Agenda: Topics that will be discussed include the following: Maternal health in the United States; current efforts to improve maternal health; gaps in the field; opportunities for collaborative efforts; and an overview of the National Maternal Health Initiative. Proposed

agenda items are subject to change as priorities dictate.

Time will be provided for public comments. Each public comment is limited to five minutes. Registered attendees for this meeting are encouraged to submit comments prior to the meeting. Comments are to be submitted in writing no later than 5:00 p.m. ET on August 19, 2013.

For Further Information Contact: Individuals who are submitting public comments or who have questions regarding the meeting should contact Keisher Highsmith, Dr.P.H., Director of Special Initiatives and Program Planning and Evaluation, Health Resources and Services Administration, Maternal and Child Health Bureau, telephone: (301) 443–0543; or email: *khighsmith@hrsa.gov*.

Dated: June 14, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–14837 Filed 6–20–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

GPR116 Knockout and Conditional Knockout Mice

Description of Technology: Pulmonary surfactant plays a critical role in preventing alveolar collapse by decreasing surface tension at the alveolar air-liquid interface. Surfactant deficiency contributes to the pathogenesis of acute lung injury (ALI) and acute respiratory distress syndrome (ARDS), common disorders that can afflict patients of all ages and carry a mortality rate greater than 25%. Excess surfactant leads to pulmonary alveolar proteinosis. The NCI investigators created a G-protein coupled receptor GPR116 mutant mouse model and showed that GPR116 plays a previously unexpected, essential role in maintaining normal surfactant levels in the lung.

The mouse model could aid in the development of drug screens to identify agents that can modulate surfactant levels. Alveolar type II cells have also been isolated from the GPR116 wildtype and knockout mice that could be directly used in such assays. The identification of surfactant modulating agents could be important to a number of lung surfactant disorders.

Potential Commercial Applications: Research materials to study lung surfactant homeostasis and disorders.

Competitive Advantages: Not available elsewhere.

Development Stage:

- Prototype.
- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Bradley Dean St. Croix and Mi Young Yang (NCI).

Publication: Yang MY, et al. Essential Regulation of Lung Surfactant Homeostasis by the Orphan G Protein-Coupled Receptor GPR116. Cell Rep. 2013 May 30;3(5):1457–64. [PMID 23684610]

Intellectual Property: HHS Reference No. E–269–2012/0—Research Tool. Patent prosecution is not being pursued for this technology.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*.

Collaborative Research Opportunity: The Center for Cancer Research Mouse Cancer Genetics Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize GPR116 Knockout and Conditional Knockout Mice. For collaboration opportunities, please contact John Hewes, Ph.D. at *hewesj@mail.nih.gov*.

Engineered Anthrax Toxin Variants That Target Cancer

Description of Technology: This technology describes the use of novel mutated anthrax protective antigen (PA) protein variants to target tumor cells and tumor vasculature. NIH scientists have engineered two PA variants that selectively complement one another and combine to form active octamers that target tumor cells. This controlled oligomeric activation of the PA proteins makes the likelihood of toxicity to non-tumor cells very low since non-tumor tissue does not express certain cell-surface proteases required to activate the PA variants. Using proteases that are highly expressed in tumor cells, e.g., matrix metalloproteases (MMP) and urokinase plasminogen activator (uPA), the scientists have shown significant tumor growth suppression with the oligomer in a mouse model. Furthermore, other tumor-specific proteases could also be used to control formation of the targeted octameric anthrax toxin structures. Moreover, the structures can be expanded to include several PA variants. In summary, this technology provides a unique, expandable platform that reduces toxicity to normal tissues compared to other systems and can be used to treat cancers more effectively.

Potential Commercial Applications: Therapeutic treatment for solid tumors, cancers, and infectious diseases.

Competitive Advantages:

- Specificity in targeting tumors while eliminating side effects associated with non-specific targeting of normal cells.
- Method can be expanded to include different proteases and up to eight PA variants.

Development Stage:

- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Clinton E. Leysath, Stephen H. Leppla, Damilola D. Phillips (NIAID).

Publication: Phillips DD, et al. Engineering anthrax toxin variants that exclusively form octamers and their application to targeting tumors. J Biol Chem. 2013 Mar 29;288(13):9058–65. [PMID 23393143]

Intellectual Property: HHS Reference No. E–246–2012/0—U.S. Provisional Application No. 61/692,143 filed 22 Aug 2012.

Related Technologies:

- HHS Reference No. E–293–1999—Mutated Anthrax Toxin Protective Antigen Proteins That Specifically Target Cells Containing High Amounts of Cell-Surface Metalloproteinases or Plasminogen Activator Receptors (Leppla/NIAID).

• HHS Reference No. E–070–2007—Human Cancer Therapy Using Engineered Metalloproteinase-Activated Anthrax Lethal Toxin That Target Tumor Vasculature (Leppla/NIAID).
• HHS Reference No. E–059–2004—Multimeric Protein Toxins to Target Cells Having Multiple Identifying Characteristics (Leppla/NIAID).

Licensing Contact: Whitney Hastings; 301–451–7337; *hastingw@mail.nih.gov*.

Intra-Bone Drug Delivery Device and Method

Description of Technology: The invention pertains to devices for directly infusing cellular therapeutics into patient bone. The device monitors intra-bone pressure using pressure sensors disposed at its proximal end and adjusts infusion pressures during infusion such that intra-bone pressure does not exceed levels of systemic blood pressure. Such devices, apparatus and methods are particularly suitable for use in performing bone marrow transplants, particularly transplants that utilize cord blood as a stem cell source.

Potential Commercial Applications: Drug delivery to bones.

Competitive Advantages:
• Therapeutic uptake efficiency.
• Drug delivery efficiency.
• Target specificity.

Development Stage:
• Prototype.
• In vitro data available.

Inventors: Robert Hoyt (NHLBI), Jeremy Pantin (NHLBI), Timothy Hunt (NHLBI), Randall Clevenger (NHLBI), Omer Aras (NIHCC), Richard Childs (NHLBI), Peter Choyke (NCI).

Publication: Pantin JM, et al. ''Optimization of an Intra-Bone Hematopoietic Stem Cell Delivery Technique in a Swine Model.'' Poster abstract presented at the 54th ASH Annual Meeting and Exposition, Atlanta, Georgia, December 8–11, 2012. [*https://ash.confex.com/ash/2012/webprogram/Paper53150.html*]

Intellectual Property: HHS Reference No. E–165–2012/0—U.S. Provisional Patent Application No. 61/771,463 filed 01 Mar 2013.

Related Technology: HHS Reference No. E–196–1998/2—U.S. Patent No. 8,409,166 issued 02 Apr 2013.

Licensing Contact: Michael Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Intra-bone Drug Delivery Device and Method. For collaboration opportunities, please contact Denise Crooks at *crooksd@nhlbi.nih.gov*.

Method of Inducing Pluripotent or Multipotent Stem Cells by Blocking CD47 Receptor Signaling

Description of Technology: NIH researchers have discovered that blockade of the signaling activity of a single cell-surface receptor, CD47, without transfection or introduction of potentially transforming viral vectors, results in high frequency, spontaneous generation of self-renewing cells with a high proliferative capacity. Induced pluripotent stem cells (iPS cells) are currently produced by transforming cells with viral or other constitutive expression vectors encoding four stem cell transcription factors (c-Myc, Sox2, Klf4, and Oct4), but this method presents challenges such as over-expression of c-Myc, which can result in malignant transformation. The present invention relates to a method of using CD47-modulating compounds to induce multipotent stem cells without the concomitant risk of malignant transformation and without requiring the use of feeder cells. The cellular phenotypes are associated with increased expression of the hallmark stem cell-inducing transcription factors, c-Myc, Sox2, Klf4, and Oct4. The current invention builds on the NIH's previous discoveries of antibodies, antisense morpholino oligonucleotides, peptide compounds and other small molecules that modulate CD47.

Potential Commercial Applications: Regenerative medicine and stem cell therapy.

Competitive Advantages:
• Does not require use of viral vectors.
• Eliminates risk of malignant transformation for clinical applications.
• Eliminates need for feeder cells.
• Allows generation and maintenance of a ready supply of iPS cells using a single defined agent.
• Avoids loss of differentiated phenotype associated with telomerase or T antigen transfection.

Development Stage:
• In vitro data available.
• In vivo data available (animal).

Inventors: David D. Roberts, Sukhbir Kaur, Jeff S. Isenberg (NCI)

Publications:
1. Kaur S, et al. Thrombospondin-1 signaling through CD47 inhibits self-renewal by regulating c-Myc and other stem cell transcription factors. Sci Rep. 2013;3:1673. [PMID 23591719]
2. NCI News Note: A drug target that stimulates development of healthy stem cells. 2013 Apr 17. [*http://www.cancer.gov/newscenter/newsfromnci/2013/cd47stemcell*]

Intellectual Property:
• HHS Reference No. E–086–2012/0—U.S. Application No. 61/621,994 filed 09 Apr 2012.
• HHS Reference No. E–086–2012/1—U.S. Application No. 61/735,701 filed 11 Dec 2012.
• HHS Reference No. E–086–2012/2—International Application PCT/US2013/035838 filed 09 Apr 2013.

Related Technologies: HHS Reference No. E–227–2006/5—
• U.S. Application No. 12/444,364 filed 3 Apr 09.
• CA Application No. 2,665,287 filed 5 Oct 07.
• EP Application No. 07868382.8 filed 27 Mar 09.
• U.S. Application No. 13/546,941 filed 11 Jul 12.

Licensing Contact: Charlene Sydnor, Ph.D.; 301–435–4689; *sydnorc@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, Laboratory of Pathology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize CD47 modulators for regenerative medicine and stem cell therapy applications. For collaboration opportunities, please contact John Hewes, Ph.D. at *hewesj@mail.nih.gov*.

Human Monoclonal Antibodies to Glypican-3 Protein and Heparan Sulfate for Treatment of Cancer

Description of Technology: Hepatocellular carcinoma (HCC) is the most common form of liver cancer, and is among the more deadly cancers in the world due to its late detection and poor prognosis. No effective treatment is available for liver cancer therapy.

Glypican-3 (GPC3) is a cell surface protein that is preferentially expressed on HCC cells, making it an attractive potential target for developing a therapeutic. This invention concerns human monoclonal antibodies against GPC3 and their use for the treatment of GPC3-expressing cancers such as HCC.

Specifically, the inventors have generated two distinct human monoclonal antibodies to GPC3. The first antibody (HN3) binds to a conformational epitope on the cell surface domain of GPC3. The second antibody (HS20) binds specifically to heparan sulfate chains on GPC3. These antibodies can inhibit the growth of HCC cells, thereby decreasing the ability of tumors to grow and metastasize. Furthermore, by using the antibodies to target a toxic moiety to only those cells that express GPC3, cancer cells can be eliminated while allowing healthy,

essential cells to remain unharmed. Thus, monoclonal antibodies to GPC3 (and corresponding immunotoxins) represent a novel therapeutic candidate for treatment of HCC, as well as other cancers associated with the differential expression of GPC3.

Potential Commercial Applications:

- Therapeutic antibodies against cancers that overexpress GPC3.
- Therapeutic immunotoxins or antibody-drug conjugates for killing cancer cells that overexpress GPC3.
- Diagnostics for detecting cancers associated with GPC3 overexpression.
- Specific cancers include hepatocellular cancer (HCC), melanoma, ovarian cancer, thyroid cancer, lung squamous cell carcinoma, Wilms' tumor, neuroblastoma, hepatoblastoma, and testicular germ-cell tumors.

Competitive Advantages:

- Monoclonal antibodies create a level of specificity that can reduce deleterious side-effects.
- Multiple treatment strategies available including the killing of cancer cells with a toxic agent or by inhibiting cell signaling.
- Non-invasive and potentially non-liver toxic alternative to current HCC treatment strategies.

Development Stage:

- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Mitchell Ho (NCI) et al.

Publications:

1. Feng M, et al. Therapeutically targeting glypican-3 via a conformation-specific single-domain antibody in hepatocellular carcinoma. Proc Natl Acad Sci U S A. 2013 Mar 19;110(12):E1083–91. [PMID 23471984]

2. Feng M, et al. Recombinant soluble glypican 3 protein inhibits the growth of hepatocellular carcinoma in vitro. Int J Cancer 2011 May1;128(9):2246–7. [PMID: 20617511]

3. Zitterman SI, et al. Soluble glypican 3 inhibits the growth of hepatocellular carcinoma in vitro and in vivo. Int J Cancer 2010 Mar 15;126(6):1291–1301. [PMID: 19816934]

Intellectual Property: HHS Reference No. E–130–2011/0—U.S. Provisional Application No. 61/477,020 filed 19 Apr 2011; PCT Application No. PCT/US2012/034186 filed 19 Apr 2012.

Related Technology: HHS Reference No. E–136–2012/0—U.S. Provisional Application No. 61/654,232 filed 01 Jun 2012.

Licensing Contact: David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, Laboratory of Molecular Biology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize novel antibody or antibody-drug conjugate therapies for the treatment of liver cancer. For collaboration opportunities, please contact John Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Dated: June 14, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–14821 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Epidemiology and Genetics.

Date: July 10, 2013.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Institutional Training Grants and Conference Grants.

Date: July 30, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Terrace Level Conference Center, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 17, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14816 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular and Cellular Substrates of Complex Brain Disorders.

Date: July 19, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14815 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource Related Research Projects for AIDS, Allergy, Immunology and Transplantation (R24).

Date: July 15, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–594–3243, *haririmf@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 14, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14818 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, R01 Grant Applications Review.

Date: July 15, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–4874, (Virtual Meeting).

Contact Person: Margaret J. Weidman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18B, Bethesda, MD 20892–4874, 301–594–3663, *weidmanma@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, NRSA Institutional Postdoctoral T32 Review.

Date: July 18, 2013.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–4874, 301–594–3907, *pikebr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 17, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14820 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; NIBIB Team-Based Training Review (2014/01).

Date: October 3, 2013.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ruth Grossman, DDS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, 301–496–8775, *grossmanrs@mail.nih.gov*.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; NIBIB P41 Meeting (2014/01).

Date: October 18, 2013.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ruth Grossman, DDS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, 301–496–8775, *grossmanrs@mail.nih.gov*.

Dated: June 17, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14819 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Intergenerational Processes.

Date: July 8, 2013.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Jo Ferrell, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *rebecca.ferrell@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 17, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14817 Filed 6–20–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Assessment of the Town Hall Meetings on Underage Drinking Prevention—(OMB No. 0930–0288)—Revision

The Substance Abuse and Mental Health Services Administration/Center for Substance Abuse Prevention (SAMHSA/CSAP) is requesting a revision from the Office of Management and Budget (OMB) of the information collection regarding the Assessment of the Town Hall Meetings (THMs) on Underage Drinking Prevention. The current data collection has approval under OMB No. 0930–0288, which expires on November 30, 2013. The assessment will continue to collect data through two existing data collection instruments: the Organizer Survey and the Participant Form.

Clarifications

Two questions were dropped from the Organizer Survey, thus bringing the total number of questions to 30. Additionally, 10 questions have been updated to provide clarification on the intent of the questions. The following table provides a summary of the proposed question clarifications and the questions that were deleted from the Organizer Survey.

Current question/item	Clarification	Rationale for clarification
q5-Did you collaborate with other organizations to coordinate the THM event? *[No change to response options]*.	q5-Did any other community-based organization (e.g., business, school) collaborate with your organization/coalition in hosting this event?	Clarifies the point of question, which is community involvement beyond the host organization.
q6-Were youth involved in organizing and/or planning the THM event? *[No change to response options]*.	q6-Were youth involved in organizing and/or hosting the THM event?	Clarifies the role of youth.
q7-Was the topic of the THM event solely on underage drinking? *[No change to response options]*.	q7-Was underage drinking the only topic addressed by the THM event?	Editorial.
q9-How was the THM event promoted in the community? (Mark all that apply.). *Response option to be clarified: E-newsletter/listserv*.	q9-How was the THM event promoted in the community? (Mark all that apply.). *Clarification to: E-newsletter/e-mail list*.	Editorial.
q12-Which of the following was among the discussion topics at the THM event? (Mark all that apply.). *Response options to be clarified: Alcohol advertising to which youth are exposed, and Parental involvement*.	q13-Which of the following topics were discussed at the THM event? (Mark all that apply.). *Clarification to: Youth exposure to alcohol advertising, and Role of parents in prevention*.	Editorial; and clarifies parental involvement. Additionally, propose to rearrange the question order of q12 and q13 to follow a more logical sequence of speaker and then topics discussed.
q16-What are some of the major actions planned as a result of this THM event? (Mark all that apply.) *[No change to response options]*.	q16-What underage drinking prevention activities are planned as a result of this THM event? (Mark all that apply.).	Clarifies the type of actions/activities that are planned as those specifically related to underage drinking.

Current question/item	Clarification	Rationale for clarification
q22-Overall, how satisfied are you with the training you received?	q22-The training has been useful to my organization's prevention work.	Clarifies the utility of the training by the organization instead of satisfaction with the training. Clarifying measure is approved under OMB No. 09130–0197, expiration 03/31/14.
Response options: Very satisfied, Somewhat satisfied, Somewhat dissatisfied, Very dissatisfied.	*Response options: Strongly agree, Agree, Disagree, Strongly disagree, Not applicable.*	
q23-To what extent has the training you received improved your capacity to provide effective (underage drinking) prevention services?	q23-The training I received improved my organization's capacity to do prevention work.	Clarifies the improved capacity of the organization from the training provided. Clarifying measure is approved under OMB No. 09130–0197, expiration 03/31/14.
Response options: A great deal, Somewhat, Not very much, Not at all, Not applicable.	*Response options: Strongly agree, Agree, Disagree, Strongly disagree, Not applicable.*	
q24-To what extent have the training recommendations you received most recently been fully implemented?		
Response options: Fully, partially, Not yet begun.	N/A	Question deleted; no longer applies.
q27-Overall, how satisfied are you with the TA you received?	q26-The technical assistance has been useful to my organization's prevention work.	Clarifies the utility of the TA by the organization instead of satisfaction with the TA. Clarifying measure is approved under OMB No. 09130–0197, expiration 03/31/14.
Response options: Very satisfied, Somewhat satisfied, Somewhat dissatisfied, Very dissatisfied.	*Response options: Strongly agree, Agree, Disagree, Strongly disagree, Not applicable.*	
q28-To what extent has the TA you received improved your capacity to provide effective (underage drinking) prevention services?	q27-The technical assistance has improved my organization's capacity to do prevention work.	Clarifies the improved capacity of the organization from the TA provided. Clarifying measure is approved under OMB No. 09130–0197, expiration 03/31/14.
Response options: A great deal, Somewhat, Not very much, Not at all, Not applicable.	*Response options: Strongly agree, Agree, Disagree, Strongly disagree, Not applicable.*	
q29-To what extent have the TA recommendations you received most recently been fully implemented?		
Response options: Fully, partially, Not yet begun.	N/A	Question deleted; no longer applies.

Minor clarifications were also made to two items on the Participant Form. Additionally, a Spanish version of the Participant Form will be provided to community-based organizations upon request. The following table provides a summary of the proposed clarifications to the two items on the Participant Form.

Current question/item	Clarification	Rationale for clarification
Informed consent statement, last sentence Please do not write your name anywhere on this form.	*Clarification to: Please do not write your name or other identifying information (e.g., birthday) anywhere on this form.*	Clarifies request not to offer identifying information on form to protect respondent anonymity.
q11-How old are you? *Response options to be clarified:* 13 years old or younger, 14 to 18 years old, and 19 to 24 years old.	q11-How old are you? *Clarification to: 12 to 17 years old, 18 to 20 years old, and 21 to 24 years old.*	Clarifies reporting ages of underage drinking for the Government Performance Results Act.

Data Collection Component

SAMHSA/CSAP will use a web-based method to collect data through the Organizer Survey and a paper-and-pencil approach to collect data through the Participant Form. The web-based application will comply with the requirements of Section 508 of the Rehabilitation Act to permit accessibility to people with disabilities.

Every 2 years, the Organizer Survey will be completed by an estimated 3,400 THM event organizers and will require only one response per respondent. It will take an average of 20 minutes (0.333 hours) to review the instructions and complete the survey. This burden estimate is based on comments from three 2012 THM organizers who reviewed the survey and provided comments on how long it would take them to complete it.

The Participant Form will be completed by an average of 30 participants per sampled community-based organization (n=400) and will require only one response per respondent. It will take an average of 5 minutes (0.083 hours) to review the instructions and complete the form.

ESTIMATED ANNUALIZED BURDEN TABLE

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Organizer Survey	3,400	1	3,400	0.333	1,132.20
Participant Form	12,000	1	12,000	0.083	996.00
Total	15,400	.....	15,400	.....	2,128.20

SAMHSA supports nationwide THMs every other year. Collecting data on each round of THMs, and using this information to inform policy and measure impact, supports SAMHSA's strategic initiative number 1: Prevention of substance abuse and mental illness. A specific goal under this initiative is to prevent or reduce the consequences of underage drinking and adult problem drinking; a specific objective is to establish the prevention of underage drinking as a priority issue for states, territories, tribal entities, colleges and universities, and communities.

SAMHSA will use the information collected to document the implementation efforts of this nationwide initiative, determine if the federally sponsored THMs lead to additional activities within the community that are aimed at preventing and reducing underage drinking, identify what these activities may possibly include, and help plan for future rounds of THMs. SAMHSA intends to post online a summary document of each round of THMs and present findings at national conferences attended by community-based organizations that have hosted THMs and might host future events. Similarly, SAMHSA plans to share findings with the Interagency Coordinating Committee on the Prevention of Underage Drinking: Agencies within this committee encourage their grantees to participate as event hosts. Additionally, the information collected will support performance measurement for SAMHSA programs under the Government Performance Results Act.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by August 20, 2013.

Summer King,

Statistician.

[FR Doc. 2013–14765 Filed 6–20–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given for the meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention National Advisory Council (CSAP NAC) on July 11, 2013.

The meeting will be convened for the review, discussion, and evaluation of grant applications. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator and in accordance with Title 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information, a summary of the meeting, and a roster of committee members may be obtained either by accessing the SAMHSA Committee's Web site after the meeting, *http://nac.samhsa.gov/,* or by contacting Matthew J. Aumen.

Committee Name: Substance Abuse and Mental Health Services Administration Center for Substance Abuse Prevention, National Advisory Council.

Date/Time/Type: July 11, 2013 from 3 p.m. to 4 p.m. EDT: (CLOSED).

Place: Teleconference.

Contact: Matthew J. Aumen, Designated Federal Officer, SAMHSA CSAP NAC, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone: 240–276–2419, Fax: 240–276–2430 and Email: *matthew.aumen@samhsa.hhs.gov*.

Cathy J. Friedman,

Public Health Analyst, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 2013–14882 Filed 6–20–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet June 27, 2013, 2:30–3:30 p.m. via teleconference.

The meeting will include discussion and evaluation of grant applications reviewed by Initial Review Groups. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(9)(b) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information, a summary of the meeting and a roster of Council members may be obtained as soon as possible after the meeting, by accessing the SAMHSA Committee Web site at *https://nac.samhsa.gov/CSATcouncil/index.aspx,* or by contacting the CSAT National Advisory Council Designated Federal Official, Ms. Cynthia Graham (see contact information below).

Committee Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: June 27, 2013, 2:30–3:30 p.m. CLOSED.

Place: SAMHSA Building, 1 Choke Cherry Road, VTC Room, Rockville, Maryland 20857.

Contact: Cynthia Graham, M.S., Designated Federal Official, SAMHSA CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1035, Rockville, Maryland 20857, Telephone: (240) 276–1692, Fax: (240) 276–1690, Email: *cynthia.graham@samhsa.hhs.gov.*

Cathy J. Friedman,

Public Health Analyst, SAMHSA.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

[FR Doc. 2013–14881 Filed 6–20–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: TSA Customer Comment Card

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0030, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on January 23, 2013 (78 FR 4856). This collection allows customers to provide feedback to TSA about their experiences with TSA's airport security process and procedures while traveling.

DATES: Send your comments by July 22, 2013. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: TSA Customer Comment Card.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 1652–0030.

Forms(s): NA.

Affected Public: Travelling public.

Abstract: 1652–0030; TSA Customer Comment Card. This renewal continues a voluntary program for airport passengers to provide feedback to TSA regarding their experiences with TSA security procedures. This collection of information allows TSA to evaluate and address customer concerns about security procedures and policies.

TSA Customer Comment Cards collect feedback, and the passenger may voluntarily provide contact information. TSA may use the contact information to respond to the passenger's comments. For passengers who deposit their cards in the designated drop-boxes, TSA staff at airports collect the cards, categorize comments, enter the results into an online system for reporting, and respond to passengers as appropriate. Passengers also have the option to mail the cards directly to the address provided on the comment card, which varies by airport.

In addition, the TSA Contact Center will continue to be available for passengers to make comments independently of airport involvement via the Talk to TSA internet application on the TSA Web site at *www.tsa.gov.* Talk to TSA is an electronic form of the comment card intended for the same purpose, to allow passengers to provide feedback to TSA regarding their experiences with TSA security procedures. The information obtained from the electronic version (Talk to TSA) will also allow TSA to evaluate and address customer concerns about security procedures and policies with an electronic interface. Additionally, one selection within the Talk to TSA application will enable the user to file Civil Rights and Liberties complaints.

Following the January 23, 2013, publication of the 60-day notice in the **Federal Register** (78 FR 4856), TSA reevaluated the estimated number of respondents and burden hours. The resultant estimates are based on current response levels via the TSA Customer Comment Card, calls and emails to the TSA Customer Contact Center, and submissions to the Office of Civil Rights and Liberties.

Number of Respondents: An estimated 320,762 respondents annually.

Estimated Annual Burden Hours: An estimated 26,998 hours annually.

Dated: June 14, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–14872 Filed 6–20–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–25]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 13, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2013–14504 Filed 6–20–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N134; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before July 22, 2013. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by July 22, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: William Tones, Katy, TX; PRT–08815B

Applicant: Dannis Hopson, Dallas, TX; PRT–08017B

B. Endangered Marine Mammals and Marine Mammals

Applicant: U.S. Geological Survey, Alaska Science Center, Anchorage, AK; PRT–067925

The applicant requests renewal of the permit for the take of northern sea otter (*Enhydra lutris kenyoni*) from the 3 population stocks in Alaska, including the Southwest Distinct Population Segment, by collection of biological samples and aerial/boat survey and for the import of biological samples from *E. l. kenyoni,* and *E. l. lutris* from Canada, Russia, and Japan for purposes of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register,** we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–14866 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N136; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and [Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before July 22, 2013. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by July 22, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Smithsonian Institution, Division of Birds, Washington DC; PRT–01637B

The applicant requests a permit to import biological samples taken from a kakapo (*Strigops habroptilus*) on Codfish Island, New Zealand for the purpose of scientific research.

Applicant: Hahn Laboratory, University of Pennsylvania School of Medicine, Philadelphia, PA; PRT–03772B

The applicant requests a permit to import necropsy tissue samples from a deceased female chimpanzee (*Pan troglodytes*) from the Sanaga-Yong Chimpanzee Rescue Center for the purpose of scientific research on the incidence of disease.

Applicant: Kent Hall, Destrehan, LA; PRT–04823B and PRT–04822B

The following applicants each request a permit to import the sport-hunted trophy of two male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John Martins, Palm Harbor, FL; PRT–01784B

Applicant: Manny Hemmerling, Monte Vista, CO; PRT–07611B

B. Endangered Marine Mammals and Marine Mammals

Applicant: Gordon Bauer, New College of Florida, Sarasota, FL; PRT–837923

The applicant requests to renew his permit to conduct auditory studies on captive held Florida manatees (*Trichechus manatus*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Office of Sponsored Programs and Research Administration, University of Illinois, Urbana, IL; PRT–99215A

The applicant requests a permit to import biological samples of polar bear

(*Ursus maritimus*) which are collected throughout the range of the species and imported from Queen's University, Ontario, Canada, for the purpose of scientific research on the development of genetic markers that would be useful in monitoring polar bear populations. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–14761 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N115; FXES11130600000D2–123–FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by July 22, 2013.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request hard copies or a CD–ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE–067397).

- *Email: permitsR6ES@fws.gov.* Please refer to the respective permit number (e.g., Permit No. TE–067397) in the subject line of the message.
- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225.
- *In-Person Drop-off, Viewing, or Pickup:* Call (303) 236–4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator, Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities with United States endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Application Available for Review and Comment

We invite local, State, and Federal agencies, and the public to comment on the following applications. Documents and other information the applicant has submitted are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number: TE–067397

Applicant: Wyoming Game and Fish Department, 5400 Bishop Blvd., Cheyenne, WY 82006.

The applicant requests the amendment of an existing permit to take (capture, handle, and release) black-footed ferret *(Mustela nigripes)* for research and presence/absence surveys within the State of Wyoming under permit TE–067397 for the purpose of enhancing the species' survival.

Permit Application Number: TE–06665B

Applicant: Utah Division of Wildlife Resources, 1594 W. North Temple, STE 2110, Salt Lake City, UT 84114.

The applicant requests a new permit to take (capture, handle, and release) woundfin *(Plagopterus argentissimus)* under permit TE–06665B for experimental stocking in the Virgin River within the State of Utah, and outside their perceived historic range, for the purpose of enhancing the species' survival.

Permit Application Number: TE–165829

Applicant: Bureau of Land Management, Utah State Office, 440 West 200 South, STE 500, Salt Lake City, UT 84145–0155.

The applicant requests the renewal of an existing permit to take (collect, handle, and propagate) Barneby ridge-cress *(Lepidium barnebyanum),* Barney reed-mustard *(Schoenocrambe barnebyi),* Holmgren milk-vetch *(Astragalus holmgreniorum),* Kodachrome bladderpod *(Lesquerella tumulosa),* San Rafael cactus *(Pediocactus despainii),* Shivwitz milk-vetch *(Astragalus ampullarioides),* shrubby reed-mustard *(Schoenocrambe suffrutenscens),* and Wright fishhook cactus *(Sclerocactus wrightiae)* under permit TE–165829 for the purpose of enhancing the species' survival.

Permit Application Number: TE–049748

Applicant: Utah State University, Ecology Center, 5205 Old Main Hill, Logan, UT 84322–5210.

The applicant requests the renewal of an existing permit to take (collect, handle, and take) June sucker *(Chasmistes liorus)* under permit TE–049748 for research on larval June sucker in Utah Lake and its tributaries for the purpose of enhancing the species' survival.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to these requests will be available for public inspection, by appointment, during normal business

hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: June 4, 2013.

Michael G. Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2013–14825 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N135; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species. We issue these permits under the Endangered Species Act (ESA).

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
89067A	Coleman Ranches, Ltd	77 FR 68809; November 16, 2012	December 28, 2012.
76016A	Richard Gracy	77 FR 68809; November 16, 2012	December 28, 2012.
85304A	David Brigham	77 FR 68809; November 16, 2012	December 28, 2012.
83485A	Coleman Ranches, Ltd	77 FR 68809; November 16, 2012	December 28, 2012.
83683A	Sheila Emerson	77 FR 68809; November 16, 2012	December 28, 2012.
76015A	Richard Gracy	77 FR 68809; November 16, 2012	December 28, 2012.
226351	Herrmann, Eugene Jerry & Janelle Patrice	77 FR 68809; November 16, 2012	December 28, 2012.
88840A	Jonathan Stewart	77 FR 68809; November 16, 2012	December 28, 2012.
71447A	Global Health And Education Foundation	77 FR 68809; November 16, 2012	January 4, 2013.
86609A	Hondeaux Oaks. LLC	77 FR 68809; November 16, 2012	January 4, 2013.
86676A	Rafter O Ranch	77 FR 68809; November 16, 2012	January 4, 2013.
86465A	Campo De Rio Medio Ranch	77 FR 68809; November 16, 2012	January 4, 2013.
734011	Festival Fun Parks LLC	77 FR 68809; November 16, 2012	January 4, 2013.
86469A	Hondeaux Oaks, LLC	77 FR 68809; November 16, 2012	January 4, 2013.
680582	Life Fellowship Bird Sanctuary	77 FR 68809; November 16, 2012	January 4, 2013.
86456A	Rafter O Ranch	77 FR 68809; November 16, 2012	January 4, 2013.
84309A	Daniel Ray	77 FR 68809; November 16, 2012	January 4, 2013.
677573	Reid Park Zoo	77 FR 68809; November 16, 2012	January 4, 2013.
002692	Springhill Wildlife Park	77 FR 68809; November 16, 2012	January 4, 2013.
680356	Utah's Hogle Zoo	77 FR 68809; November 16, 2012	January 4, 2013.
88651A	Circle E Ranch	77 FR 68809; November 16, 2012	January 10, 2013.
88044A	Double Arrow Bow Hunting	77 FR 68809; November 16, 2012	January 10, 2013.
88290A	Still Fox Ranch	77 FR 68809; November 16, 2012	January 10, 2013.
88649A	Circle E Ranch	77 FR 68809; November 16, 2012	January 10, 2013.
88038A	Double Arrow Bow Hunting	77 FR 68809; November 16, 2012	January 10, 2013.
88901A	Clifton Lincoln	77 FR 68809; November 16, 2012	January 10, 2013.
88288A	Still Fox Ranch	77 FR 68809; November 16, 2012	January 10, 2013.
88909A	Living Treasures Wild Animal Park	77 FR 68809; November 16, 2012	January 22, 2013.
88777A	Wild Wonders Zoofari	77 FR 68809; November 16, 2012	February 20, 2013.
88756A	Lionshare Farm Zoological LLC	77 FR 68809; November 16, 2012	March 12, 2013.
84317A	Diane Hitchcock	77 FR 70457; November 26, 2012	January 10, 2013.
83682A	Brian Holeman	77 FR 70457; November 26, 2012	January 10, 2013.
748351	Endangered Species Propagation	77 FR 70457; November 26, 2012	January 11, 2013.
027091	Alan Flynn	77 FR 70457; November 26, 2012	January 11, 2013.
713600	Kingdom Of The Mammals	77 FR 70457; November 26, 2012	January 11, 2013.
89824A	Terry Owen	77 FR 70457; November 26, 2012	January 15, 2013.
89321A	Johnny B Corporation	77 FR 70457; November 26, 2012	January 15, 2013.
89708A	Terry Owen	77 FR 70457; November 26, 2012	January 15, 2013.
89123A	Tony Roach	77 FR 70457; November 26, 2012	January 15, 2013.
89821A	James Sillers	77 FR 70457; November 26, 2012	January 15, 2013.
89715A	Karla White	77 FR 70457; November 26, 2012	January 15, 2013.
073270	Robert Opferman	77 FR 70457; November 26, 2012	January 16, 2013.
680444	Roosevelt Park Zoo	77 FR 70457; November 26, 2012	January 16, 2013.
813047	Staten Island Zoological Society	77 FR 70457; November 26, 2012	January 16, 2013.

ENDANGERED SPECIES—Continued

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
678969	Wildlife Conservation Society	77 FR 70457; November 26, 2012	January 16, 2013.
773473	Zoological Society Of Sioux Falls	77 FR 70457; November 26, 2012	January 16, 2013.
778487	Zoological Society Of San Diego	77 FR 70457; November 26, 2012	January 17, 2013.
705206	Blank Park Zoo	77 FR 70457; November 26, 2012	January 17, 2013.
675130	Central Florida Zoological Park	77 FR 70457; November 26, 2012	January 17, 2013.
195196	Lionshare Farm Zoological LLC	77 FR 70457; November 26, 2012	January 17, 2013.
89124A	St. Catherines Island Foundation	77 FR 70457; November 26, 2012	February 14, 2013.
233238	Timathy Beard	77 FR 74506; December 14, 2012	January 17, 2013.
232854	Richard Ehrlich	77 FR 74506; December 14, 2012	January 17, 2013.
679556	Indianapolis Zoological Society, Inc	77 FR 74506; December 14, 2012	January 17, 2013.
706378	Palm Beach Zoo At Dreher Park	77 FR 74506; December 14, 2012	January 17, 2013.
91700A	Reptile Wrangler LLC	77 FR 74506; December 14, 2012	January 17, 2013.
89184A	Cinco Canyon Ranch	78 FR 112; January 2, 2013	February 14, 2013.
89185A	Cinco Canyon Ranch	78 FR 112; January 2, 2013	February 14, 2013.
92666A	Romeo Boone	78 FR 4162; January 18, 2013	February 26, 2013.
91310A	Campo De Rio Medio Ranch	78 FR 4162; January 18, 2013	February 26, 2013.
92665A	Romeo Boone	78 FR 4162; January 18, 2013	February 26, 2013.
92474A	Greenville Zoo	78 FR 4162; January 18, 2013	February 26, 2013.
93472A	David Horton	78 FR 4162; January 18, 2013	February 26, 2013.
93972A	Khj Property Management LLC	78 FR 4162; January 18, 2013	February 26, 2013.
93921A	Drs Family Partnership LP	78 FR 4162; January 18, 2013	February 27, 2013.
64652A	Kent Creek Ranch Inc	78 FR 4162; January 18, 2013	February 27, 2013.
93422A	Khj Property Management LLC	78 FR 4162; January 18, 2013	February 27, 2013.
93920A	Drs Family Partnership LP	78 FR 4162; January 18, 2013	February 27, 2013.
93748A	Surprise Spring Foundation	78 FR 4162; January 18, 2013	February 27, 2013.
94164A	Heaven On Earth Avian Acre	78 FR 5481; January 25, 2013	February 27, 2013.
93905A	Tanganyika Wildlife Park	78 FR 5481; January 25, 2013	March 11, 2013.
94067A	Ronald Garison	78 FR 7447; February 1, 2013	March 11, 2013.
691895	International Crane Foundation	78 FR 7447; February 1, 2013	March 11, 2013.
683609	Oklahoma City Zoological Park	78 FR 7447; February 1, 2013	March 11, 2013.
203027	Panther Ridge Sanctuary	78 FR 7447; February 1, 2013	March 11, 2013.
95036A	Smoky Mountain Zoological Park Inc	78 FR 7447; February 1, 2013	March 11, 2013.
667821	West Coast Game Park, Inc	78 FR 7447; February 1, 2013	March 11, 2013.
769096	Montgomery Zoo	78 FR 7447; February 1, 2013	April 18, 2013.
91208A	Antonio Gutierrez	78 FR 9725; February 11, 2013	April 22, 2013.
793628	International Center For The Preservation Of Wild Animals.	78 FR 12777; February 25, 2013	April 11, 2013.
95027A	4d Game Ranch	78 FR 12777; February 25, 2013	April 10, 2013.
96459A	Heart A Ranch	78 FR 12777; February 25, 2013	April 10, 2013.
95422A	Southwestern Medical Centers—Arizona Inc	78 FR 12777; February 25, 2013	April 10, 2013.
95026A	4d Game Ranch	78 FR 12777; February 25, 2013	April 10, 2013.
96499A	Brian Buchanan	78 FR 12777; February 25, 2013	April 10, 2013.
94167A	Michael Burroughs	78 FR 12777; February 25, 2013	April 10, 2013.
96383A	Charles Crawford	78 FR 12777; February 25, 2013	April 10, 2013.
793094	Patricia Green	78 FR 12777; February 25, 2013	April 10, 2013.
96457A	Heart A Ranch	78 FR 12777; February 25, 2013	April 10, 2013.
94867A	La Barronena Ranch East Partners, LP	78 FR 12777; February 25, 2013	April 10, 2013.
01668A	Christopher Resnyk	78 FR 12777; February 25, 2013	April 10, 2013.
96508A	Greg Schmitt	78 FR 12777; February 25, 2013	April 10, 2013.
95424A	Southwestern Medical Centers—Arizona Inc	78 FR 12777; February 25, 2013	April 10, 2013.
708685	Exotic Feline Breeding Compound, Inc	78 FR 12777; February 25, 2013	April 11, 2013.
690797	Peoria's Glen Oak Zoo	78 FR 12777; February 25, 2013	April 11, 2013.
034669	Randar's Reptiles	78 FR 12777; February 25, 2013	April 11, 2013.
96647A	Zoological Wildlife Foundation, Inc	78 FR 12777; February 25, 2013	April 11, 2013.
692689	Omaha's Henry Doorly Zoo	78 FR 14817; March 7, 2013	April 18, 2013.
97899A	Rock Head Properties, L.L.C.	78 FR 14817; March 7, 2013	April 22, 2013.
189400	Brights Zoo	78 FR 14817; March 7, 2013	April 22, 2013.
97898A	Rock Head Properties, L.L.C.	78 FR 14817; March 7, 2013	April 22, 2013.
011708	Seaworld California	78 FR 14817; March 7, 2013	April 22, 2013.
97961A	Tiger World Inc	78 FR 14817; March 7, 2013	April 22, 2013.
97746A	Blue Diablo LLC	78 FR 14817; March 7, 2013	April 18, 2013.
97677A	North Texas Outfitters	78 FR 14817; March 7, 2013	April 18, 2013.
97758A	Blue Diablo LLC	78 FR 14817; March 7, 2013	April 18, 2013.
203395	Cape Fear Serpentarium	78 FR 14817; March 7, 2013	April 18, 2013.
93424A	Cdub	78 FR 14817; March 7, 2013	April 18, 2013.
687643	Gladys Porter Zoo	78 FR 14817; March 7, 2013	April 18, 2013.
97815A	Adam Hunt	78 FR 14817; March 7, 2013	April 18, 2013.
97223A	North Texas Outfitters	78 FR 14817; March 7, 2013	April 18, 2013.
057232	Parrot Mountain And Gardens	78 FR 14817; March 7, 2013	April 18, 2013.
227389	Wildlife World Zoo, Inc	78 FR 14817; March 7, 2013	April 18, 2013.
692874	Cleveland Metroparks Zoo	78 FR 16292; March 14, 2013	April 22, 2013.
98490A	William Espenshade	78 FR 16292; March 14, 2013	April 22, 2013.

ENDANGERED SPECIES—Continued

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
98491A	Marcus Franco De Andrade	78 FR 16292; March 14, 2013	April 22, 2013.
98787A	Deborah Voyles	78 FR 16292; March 14, 2013	April 23, 2013.
98788A	Deborah Voyles	78 FR 16292; March 14, 2013	April 23, 2013.
98777A	Young Scholar (The)	78 FR 16292; March 14, 2013	April 23, 2013.
96245A	Riverbanks Zoo and Garden	78 FR 17711, March 22, 2013	May 31, 2013.
057398	Zoological Society of San Diego	78 FR 25297, April 30, 2013	June 3, 2013.
94950A	Centers for Disease Control	78 FR 21628, April 11, 2013	June 3, 2013.
95489A	Stuart D. Nielsen	78 FR 9725; February 11, 2013	June 3, 2013.
75691A	Turtle Back Zoo	77 FR 51819; August 27, 2012	February 29, 2013.
89695A	Smithsonian National Zoological Park	78 FR 12777; February 25, 2013	April 12, 2013.
73328A	Dallas World Aquarium	78 FR 113; January 2, 2013	March 1, 2013.
81771A	Chahinkapa Zoo	78 FR 113; January 2, 2013	March 11, 2013.
65708A	Duke Lemur Center	77 FR 30547; May 23, 2012	September 9, 2012.
66809A	University of Cincinnati	77 FR 34059; June 8, 2012	September 13, 2012.
63801A	Global Viral Forecasting Initiative	77 FR 24510; April 24, 2012	September 12, 2012.
86728A	St. Catherine's Island Foundation	78 FR 113; January 2, 2013	February 21, 2013.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–14763 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B811.IA000913]

Renewal of Agency Information Collection for Tribal Energy Resource Agreements

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information titled ''Tribal Energy Resource Agreements'' (TERAs) under the Office of Indian Energy and Economic Development Office (IEED) authorized by OMB Control Number 1076–0167. This information collection expires June 30, 2013.

DATES: Interested persons are invited to submit comments on or before July 22, 2013.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov*. Please send a copy of your comments to David Johnson, Office of Indian Energy and Economic Development, 1951 Constitution Avenue NW., Room 20–SIB, Washington, DC 20240; email *DavidB.Johnson@bia.gov;* or facsimile: (202) 208–4564.

FOR FURTHER INFORMATION CONTACT: David Johnson, (202) 208–3026. You may review the information collection request online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Energy Policy Act of 2005, 25 U.S.C. 3504 authorizes the Secretary of the Interior to approve individual Tribal Energy Resource Agreements (TERAs). The intent of these agreements is to promote tribal oversight and management of energy resource development on tribal lands and further the goal of Indian self-determination. A TERA offers a tribe an alternative for developing energy-related business agreements and awarding leases and granting rights-of-way for energy facilities without having to obtain further approval from the Secretary.

This information collection conducted under TERA regulations at 25 CFR part 224 will allow IEED to determine the capacity of tribes to manage the development of energy resources on tribal lands. Information collection:

- Enables IEED to engage in a consultation process with tribes that is designed to foster optimal pre-planning of development proposals and speed up the review and approval process for TERA agreements;
- Provides wide public notice and opportunity for review of TERA agreements by the public, industry, and government agencies;
- Ensures that the public has an avenue for review of the performance of tribes in implementing a TERA;
- Creates a process for preventing damage to sensitive resources as well as ensuring that the public has fully communicated with the tribe in the petition process;
- Ensures that a tribe is fully aware of any attempt by the Department of the Interior to resume management authority over energy resources on tribal lands; and
- Ensures that the tribal government fully endorses any relinquishment of a TERA.

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0167.

Title: Tribal Energy Resource Agreements, 25 CFR 224.

Brief Description of Collection: Submission of this information is required for Indian tribes to apply for, implement, reassume, or rescind a TERA that has been entered into in accordance with the Energy Policy Act of 2005 and 25 CFR part 224. This collection also requires the tribe to notify the public of certain actions. A response is required to obtain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Federally recognized Indian tribes.

Number of Respondents: 14.

Frequency of Response: On occasion.

Estimated Time per Response: Ranges from 32 hours to 1,080 hours.

Estimated Total Annual Hour Burden: 10,752 hours.

Estimated Total Non-hour Cost Burden: $48,200.

Dated: June 17, 2013.

John Ashley,

Acting Assistant Director for Information Resources.

[FR Doc. 2013–14884 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5C611.IA003213]

Draft Environmental Impact Statement for Proposed Strategies To Benefit Native Species by Reducing the Abundance of Lake Trout in Flathead Lake, Montana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Indian Affairs (BIA) as the lead Federal agency, with the Confederated Salish and Kootenai Tribes of the Flathead Reservation as a Cooperating Agency, intends to file a draft environmental impact statement (DEIS) titled: Proposed Strategies to Benefit Native Species by Reducing the Abundance of Lake Trout in Flathead Lake, Montana. This notice also announces that the DEIS is now available for public review and that a public meeting will be held to solicit comments on the draft document.

DATES: The date and location of the public meeting will be published 15 days prior to the meeting in the following local newspapers: The Lake County Leader, the Daily Interlake, the Flathead Beacon, the Valley Journal, the Missoulian, and on the following Web site: *www.mackdays.com.* Written comments on the DEIS must arrive 45 days after EPA publishes its Notice of Availability in the **Federal Register**.

ADDRESSES: You may mail, email, hand carry, or telefax written comments to Mr. Les Evarts, Fisheries Program Manager, Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855; fax (406) 883–2848; email *lese@cskt.org.* See **SUPPLEMENTARY INFORMATION** section of this notice for instructions on submitting comments and locations where the DEIS is available for review.

FOR FURTHER INFORMATION CONTACT: Barry Hansen, Fisheries Program, Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855; telephone (406) 883–2888, ext. 7282; email *barryh@cskt.org.*

SUPPLEMENTARY INFORMATION: The DEIS will assess the environmental consequences of BIA approval of a proposal to benefit native fish populations in the Flathead Basin by reducing non-native lake trout abundance in Flathead Lake. Direction to manage non-native fish populations to improve conditions for native fish species comes from the Flathead Lake and River Fisheries Co-Management Plan, Bull Trout Restoration Plan, Cutthroat Memorandum of Understanding and Conservation Agreement, and Flathead Subbasin Plan: Part III, and Flathead River Subbasin Management Plan.

Stakeholders from the Flathead Basin comprise an interdisciplinary team that includes Confederated Salish and Kootenai Tribes, U.S. Fish and Wildlife Service, National Park Service, U.S. Forest Service, U.S. Geological Survey, local fishing guides and anglers, Trout Unlimited, University of Montana, and Montana Department of Natural Resources and Conservation. The team has met since 2010 to draft issues, develop alternatives, and analyze impacts.

The range of alternatives in the DEIS includes: No action (maintain the status quo of lake trout harvest from general harvest and fishing contests), reduce lake trout numbers to 25 percent of 2010 population levels, reduce lake trout numbers to 50 percent of 2010 population levels, and reduce lake trout numbers to 75 percent of 2010 population levels.

Proposed alternatives would employ a combination of tools to achieve proposed lake trout reduction targets such as general harvest, fishing contests, bounties, and targeted gill and trap netting. Proposed action alternatives would be implemented indefinitely into the future to achieve and maintain lake trout population reductions. Proposed action alternatives would include implementation and effectiveness monitoring so that harvest strategies can be adapted to future conditions, and would employ a range of methods to minimize by-catch mortality of non-target fish species. Annual lake trout harvest levels have been derived from an age-structured stochastic simulation model based on decades of local population data. Proposed annual harvests are 84,000 lake trout for 25 percent reduction, 112,000 lake trout for 50 percent reduction, and 143,000 lake trout for 75 percent reduction.

Issues addressed in the DEIS include: (1) Biological resources (lake trout, bull trout, westslope cutthroat trout, lake whitefish, yellow perch, and invertebrates including *Mysis* shrimp); (2) fishing opportunity; and (3) fishing economy. Also addressed are cultural resources, grizzly bears, environmental justice and Indian trust resources.

Directions for Submitting Comments: Please include your name, return address and the caption ''DEIS Comments, Proposed Strategies to Benefit Native Species by Reducing the Abundance of Lake Trout in Flathead Lake, Montana.''

Locations where the DEIS is Available for Review: The DEIS may be found on the following Web sites: *www.mackdays.com* under the DEIS Tab and *www.flatheadlakeeis.net.* Hard copies of the document will be available for viewing at the office of the Confederated Salish and Kootenai Tribes, Fisheries Program located at 418 6th Ave. E, Polson, Montana. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses for the number of copies requested. To obtain a compact disk of the DEIS please provide your

name and address in writing or by voice mail to Barry Hansen, Fisheries Program, Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855; telephone (406) 883–2888, ext. 7282; email *barryh@cskt.org.*

Public Comment Availability: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published in accordance with section 1503.1 of the Council on Environmental Quality regulations (40 CFR part 1500 et seq.) and the Department of the Interior Regulations (43 CFR part 46) implementing the procedural requirements of the NEPA (42 U.S.C. 4321 et seq.), and in accordance with the exercise of authority delegated to the Assistant Secretary—Indian Affairs by part 209 of the Department Manual.

Dated: June 12, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–14691 Filed 6–20–13; 8:45 am]

BILLING CODE 4310–W7–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–823]

Certain Kinesiotherapy Devices and Components Thereof Final Commission Determination of Violation; Issuance of a General Exclusion Order and Cease and Desist Orders; and Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation with a finding of violation of section 337, and has issued a general exclusion order directed against infringing kinesiotherapy devices and components thereof, and cease and desist orders directed against respondents LELO Inc. of San Jose, California; PHE, Inc. d/b/a Adam & Eve of Hillsborough, North Carolina; Nalpac Enterprises, Ltd. of Ferndale, Michigan; E.T.C. Inc. (d/b/a Eldorado Trading Company, Inc.) of Broomfield, Colorado; Williams Trading Co., Inc. of Pennsauken, New Jersey; Honey's Place Inc. of San Fernando, California; and Lover's Lane & Co. of Plymouth, Michigan. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3041. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 10, 2012, based on a complaint filed by Standard Innovation Corporation of Ottawa, ON, Canada and Standard Innovation (US) Corp. of Wilmington, Delaware (collectively, ''Standard Innovation''). 77 *FR* 1504 (Jan. 10, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of United States Patent Nos. 7,931,605 (''the '605 patent'') and D605,779 (''the D'779 patent''). The complaint named twenty-one business entities as respondents, several of which have since been terminated from the investigation based upon consent orders or withdrawal of the complaint. On July 25, 2012, the Commission determined not to review an ID (Order No. 25) granting Standard Innovation's motion to withdraw the D'779 patent from the investigation.

An evidentiary hearing was held from August 21, 2012, to August 24, 2012. On January 8, 2013, the ALJ issued a final initial determination (''ID'') finding no violation of section 337. The ALJ also issued a recommended determination on remedy and bonding on January 22, 2013. Specifically, the ALJ found that Standard Innovation had not satisfied the economic prong of the domestic industry requirement of section 337. The ALJ found, however, that the accused products infringe the asserted claims, that the asserted claims were not shown to be invalid, and that the technical prong of the domestic industry requirement was shown to be satisfied.

On January 22, 2013, Standard Innovation and the Commission investigative attorney (''IA'') filed petitions for review of the final ID. Also on January 22, 2013, the respondents remaining in the investigation filed a joint contingent petition for review. On January 30, 2013, the parties filed responses to the petitions.

On March 25, 2013, the Commission determined to review the ID in its entirety and posed four questions to the parties concerning the economic prong of the domestic industry requirement of section 337. The parties and the IA submitted briefs on April 8, 2013, and briefs in reply on April 15, 2013 concerning the Commission's questions and remedy, the public interest, and bonding. The Commission extended the target date to June 7, 2013 and then to June 17, 2013.

Having examined the record in this investigation, including the ID, the petitions for review, and the submissions on review and responses thereto, the Commission has determined that Standard Innovation has satisfied the domestic industry requirement and that there is a violation of section 337 with respect to claims 1–7, 9–21, 23, 24, 33–40, 42–54, 56, 57, 66–73, 75–87, 89, and 90 of the '605 patent.

The Commission has also made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is both: (1) A general exclusion order prohibiting the unlicensed entry of kinesiotherapy devices and components thereof that infringe claims 1–7, 9–21, 23, 24, 33–40, 42–54, 56, 57, 66–73, 75–87, 89, or 90 of the '605 patent; and (2) cease and desist orders prohibiting LELO Inc. of San Jose, California; PHE, Inc. d/b/a Adam & Eve of Hillsborough, North Carolina; Nalpac Enterprises, Ltd. of Ferndale, Michigan; E.T.C. Inc. (d/b/a Eldorado Trading Company, Inc.) of Broomfield, Colorado; Williams Trading Co., Inc. of Pennsauken, New Jersey; Honey's Place Inc. of San Fernando, California; and Lover's Lane & Co. of Plymouth, Michigan from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, kinesiotherapy devices and components with respect to the same claims.

The Commission further determined that the public interest factors

enumerated in section 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude issuance of the general exclusion order or the cease and desist orders. Finally, the Commission determined that there shall be a bond in the amount of zero percent of entered value to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.50).

Issued: June 17, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–14811 Filed 6–20–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–845]

Certain Products Containing Interactive Program Guide and Parental Control Technology; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a Recommended Determination on Remedy and Bonding in the above-captioned investigation. The ALJ found no violation in this investigation, however, in the event that the Commission reverses the ALJ's finding of no violation, the ALJ recommends that a limited exclusion order should be directed to Roku, Inc., with respect to U.S. Patent No. 6,898,762. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically the limited exclusion order. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on June 13, 2013. Comments should address whether issuance of a LEO in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the LEO would impact consumers in the United States.

Written submissions must be filed no later than by close of business on July 15, 2013.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 845'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

Issued: June 18, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–14813 Filed 6–20–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–883]

Certain Opaque Polymers; Institution of Investigation Pursuant to United States Code

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 20, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Rohm and Haas Company and Rohm and Haas Chemicals LLC, both of Philadelphia, Pennsylvania, and The Dow Chemical Company of Midland, Michigan. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain opaque polymers by reason of infringement of certain claims of U.S. Patent No. 6,020,435 (''the '435 patent''), U.S. Patent No. 6,252,004 (''the '004 patent''), U.S. Patent No. 7,435,783 (''the '783 patent''), and U.S. Patent No. 7,803,878 (''the '878 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2013).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 17, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain opaque polymers that infringe one or more of claims 1–5 of the '435 patent, claims 1 and 3–7 of the '004 patent, claims 1–8, 10–12, and 14 of the '783 patent, and claims 1–3 of the '878 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purposes of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106.

Rohm and Haas Chemicals LLC, 100 Independence Mall West, Philadelphia, PA 19106.

The Dow Chemical Company, 2030 Dow Center, Midland, MI 48674.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Organik Kimya San. ve Tic. A.Ş, Mimarsinan Mah. Cendere Yolu No: 146, Kemerburgaz 34075 Eyüp, Istanbul, Turkey.

Organik Kimya Netherlands B.V., Chemieweg 7, 3197 KC, Rotterdam—Botlek, Netherlands.

Organik Kimya US, Inc., 200 Wheeler Road, 2nd Floor, Burlington, MA 01803.

Turk International LLC, 7960 B Soquel Drive # 411, Aptos, CA 95003.

Aalborz Chemical LLC, d/b/a All Chem, 2240 29th Street SE., Grand Rapids, MI 49508.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: June 18, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–14877 Filed 6–20–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on May 30, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has

filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, American Institutes for Research, Washington, DC; Gwinnett County Public Schools, Suwanee GA; Instructure, Salt Lake City, UT; Kaltura Inc., New York, NY; and LearningMate Solutions, Inc., New York, NY, have been added as parties to this venture.

Also, IVIMEDS, Dundee, UNITED KINGDOM; Florida State College at Jacksonville, Jacksonville, FL; and Turning Technologies, Youngstown, OH, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on March 19, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 15, 2013 (78 FR 22297).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–14777 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—U.S. Photovoltaic Manufacturing Consortium, Inc.

Notice is hereby given that, on May 21, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), U.S. Photovoltaic Manufacturing Consortium, Inc. (''USPVMC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Esgee Technologies, Inc., Austin, TX; and Magnolia Solar, Albany, NY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and USPVMC intends to file additional written notifications disclosing all changes in membership.

On November 14, 2011, USPVMC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 21, 2011 (76 FR 79218).

The last notification was filed with the Department on January 15, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2013 (78 FR 9939).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–14780 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sematech, Inc. D/B/A International Sematech

Notice is hereby given that, on May 21, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sematech, Inc. d/b/a International Sematech (''SEMATECH'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Intermolecular, Inc., San Jose, CA; United Microelectronics Corp., Hsinchu, TAIWAN; Morgan Advanced Materials, Windsor, Berkshire, UNITED KINGDOM; Freescale Semiconductor, Inc., Austin, TX; and TriQuint Semiconductors, Inc., Richardson, TX, have been added as parties to this venture.

Also, 4DS, Fremont, CA; NEXX Systems, Billerica, MA; and SÜSS MicroTec, Garching, GERMANY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SEMATECH intends to file additional written notifications disclosing all changes in membership.

On April 22, 1988, SEMATECH filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 19, 1988 (53 FR 17987).

The last notification was filed with the Department on March 7, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 28, 2013 (78 FR 19009).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–14776 Filed 6–20–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

RIN 1210–ZA18

[Application Number: D–11681]

Proposed Amendments to Class Prohibited Transaction Exemptions To Remove Credit Ratings Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Proposed Amendments to Certain Class Exemptions.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of Proposed Amendments to Prohibited Transaction Exemption (PTE) 75–1 (40 FR 50845, October 31, 1975, as amended by 71 FR 5883, February 3, 2006); PTE 80–83 (45 FR 73189, November 4, 1980); PTE 81–8 (46 FR 7511, January 23, 1981, as amended by 50 FR 14043, April 9, 1985); PTE 95–60 (60 FR 35925, July 12, 1995); PTE 97–41 (62 FR 42830, August 8, 1997); and PTE 2006–16 (71 FR 63786, October 31, 2006). The proposed amendments relate to the use of credit ratings as standards of credit-worthiness

in such class exemptions. Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) requires the Department to remove any references to or requirements of reliance on credit ratings from its class exemptions and to substitute such standards of credit-worthiness as the Department determines to be appropriate. If adopted, the proposed amendments would affect participants and beneficiaries of employee benefit plans, fiduciaries of such plans, and the financial institutions that engage in transactions with, or provide services or products to, the plans.

DATES: Written comments and requests for a public hearing should be received by the Department on or before August 20, 2013. If adopted, the amendments would be effective 60 days after the date of publication of the final amendments with respect to PTE 75–1; PTE 80–83; PTE 81–8; PTE 95–60; PTE 97–41; and PTE 2006–16.

ADDRESSES: All written comments and requests for a public hearing concerning the proposed amendments should be sent to the Office of Exemption Determinations via email to: *e-OED@dol.gov,* or via the Federal eRulemaking Portal: *http://www.regulations.gov* at Docket ID number: EBSA–2012–0013 (follow the instructions for submitting comments). Interested persons may also submit written comments and hearing requests by letter addressed to: Employee Benefits Security Administration, Room N–5700, (Attention: Application No. D–11681), U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by fax to (202) 219–0204. All comments and hearing requests must be received by the end of the comment period. The comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments and hearing requests will also be available online at *www.regulations.gov,* at Docket ID number: EBSA–2012–0013 and *www.dol.gov/ebsa,* at no charge. All comments will be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want to be publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Warren M. Blinder, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, Room N–5700, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8553 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of proposed amendments to: PTE 75–1, Exemptions From Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefit Plans and Certain Broker-Dealers, Reporting Dealers and Banks; PTE 80–83, Class Exemption for Certain Transactions Involving Purchases of Securities Where Issuer May Use Proceeds to Reduce or Retire Indebtedness to Parties in Interest; PTE 81–8, Class Exemption Covering Certain Short-term Investments; PTE 95–60, Class Exemption for Certain Transactions Involving Insurance Company General Accounts; PTE 97–41, Class Exemption for Collective Investment Fund Conversion Transactions; and PTE 2006–16, Class Exemption To Permit Certain Loans of Securities by Employee Benefit Plans (collectively, the Class Exemptions). The Class Exemptions provide relief from certain of the restrictions described in section 406 of the Employee Retirement Income Security Act of 1974 (ERISA), and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of a parallel provision described in section 4975(c)(1)(A) through (F) of the Code, provided that the conditions of the relevant exemption have been met. The Department is proposing to amend each of the Class Exemptions on its own motion, pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).[1]

A. Background

Dodd-Frank,[2] enacted in the wake of the financial crisis of 2008, was intended to, among other things, promote the financial stability of the United States by improving accountability and transparency in the financial system. Title IX, Subtitle C, of Dodd-Frank includes provisions regarding statutory and regulatory references to credit ratings in rules and regulations promulgated by Federal agencies, including the Department, which are designed ''[t]o reduce the reliance on ratings.'' [3]

Congress recognized the ''systemic importance of credit ratings and the reliance placed on credit ratings by individual and institutional investors and financial regulators.'' [4] Because credit rating agencies perform evaluative and analytical services on behalf of clients, much the same as auditors, securities analysts, and investment bankers do, Congress noted that ''the activities of credit rating agencies are fundamentally commercial in character and should be subject to the same standards of liability and oversight.'' [5] Furthermore, Congress observed that, in the recent financial crisis precipitating Dodd-Frank, credit ratings of certain financial products proved to be inaccurate, which ''contributed significantly to the mismanagement of risks by financial institutions and investors, which in turn adversely impacted the health of the economy in the United States and around the world.'' [6] As a result, Congress determined that ''[s]uch inaccuracy necessitates increased accountability on the part of credit rating agencies.'' [7]

Specifically, in section 939A of Dodd-Frank, Congress requires that the Department ''review any regulation issued by [the Department] that requires the use of an assessment of the credit-worthiness of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings.'' [8] Once the Department has completed that review, the statute provides that the Department ''remove any reference to or requirement of reliance on credit ratings, and to substitute in such regulations such standard of credit-worthiness'' as the Department determines to be appropriate.[9]

Based on the Department's consideration of section 939A of Dodd-Frank, the Department believes that the Class Exemptions are ''regulations'' for purposes of section 939A and, therefore,

[1] Section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), generally transferred the authority of the Secretary of Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. For purposes of this exemption, references to specific provisions of Title I of ERISA, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] See Public Law 111–203, 124 Stat. 1376 (2010).

[3] See Joint Explanatory Statement of the Committee of Conference, Conference Committee Report No. 111–517, to accompany H.R. 4173, 864–879, 870 (Jun. 29, 2010).

[4] Public Law 111–203, Section 931(1).

[5] Public Law 111–203, Section 931(3).

[6] Public Law 111–203, Section 931(5).

[7] Id.

[8] Public Law 111–203, Section 939A(a)(1)–(2).

[9] Public Law 111–203, Section 939A(b).

are subject to its requirement to remove references to credit ratings. The process for proposing and granting class exemptions is similar to the regulatory process, and class exemptions generally apply to broad classes of transactions and/or parties.

Accordingly, the Department has conducted a review of its class exemptions as required by section 939A(a) of Dodd-Frank and identified the Class Exemptions as those including references to, or requiring reliance on, credit ratings. In this regard, in each of the Class Exemptions, the Department has conditioned relief on the financial instruments which are the subject of such exemptions, or an issuer of such a financial instrument, receiving a specified credit rating, issued by a credit rating agency. Credit ratings have been considered useful for fiduciaries of employee benefit plans in evaluating the credit quality of a particular financial instrument or issuer, as plan fiduciaries frequently do not possess the expertise or resources to engage in an analysis of the credit quality of a financial instrument or its issuer. This credit rating condition is one component of the safeguards established in each Class Exemption to protect the interests of plans, and their participants and beneficiaries, which enter into transactions covered by the Class Exemptions.

The credit ratings requirements found in the Class Exemptions range from a rating in one of the highest four generic categories of credit ratings to a rating in one of the highest two categories of credit ratings, from a nationally recognized statistical rating organization (NRSRO). In this regard, PTE 75–1 and PTE 80–83 require credit ratings in one of the four highest rating categories for non-convertible debt securities. PTE 2006–16 requires a credit rating of ''investment grade'' [10] or better for certain issuers of irrevocable letters of credit and a credit rating in one of the two highest rating categories for collateral which consists of foreign sovereign debt securities. PTE 81–8 utilizes a credit rating in one of the three highest rating categories for commercial paper. PTE 95–60 and PTE 97–41 do not require specific credit ratings, but instead refer generally to the credit ratings of certain financial instruments. Pursuant to Dodd-Frank, the Department is proposing herein to amend the Class Exemptions listed above to remove such references to credit ratings, and where applicable, substitute in their place alternative methods for determining credit quality which take into account the purpose and characteristics of each such Class Exemption.

B. Securities and Exchange Commission (SEC) Alternatives to Credit Ratings

In proposing these amendments to the Class Exemptions, the Department has considered alternatives to credit ratings set forth in three recent SEC releases (the SEC Releases). The first is a recent proposal (the Investment Company Proposal) released by the SEC in response to section 939A and section 939(c) of Dodd-Frank that relates to the use of credit ratings in rules and forms under the Investment Company Act of 1940 (the Investment Company Act).[11] The second is the adoption of a new rule 6a-5 implementing section 939(c) of Dodd-Frank.[12] Rule 6a-5 was initially proposed in the Investment Company Proposal and relates to the use of credit ratings in rules under the Investment Company Act (the Investment Company Final Rule, and together with the Investment Company Proposal, the Investment Company Releases). The third is the adoption of rule amendments (the 2009 NRSRO Rule Adopting Release) released by the SEC in 2009 on its own initiative regarding references to credit ratings of nationally recognized statistical rating organizations in certain rules under the Securities Exchange Act of 1934 (the Exchange Act) and the Investment Company Act.[13]

In the Investment Company Proposal, the SEC proposed alternatives to credit ratings in amendments to rules 2a–7, 5b–3, and in the Investment Company Final Rule, the SEC adopted an alternative to credit ratings in new rule 6a–5, each such rule under the Investment Company Act. In the 2009 NRSRO Rule Adopting Release, the SEC adopted an alternative to credit ratings in amendments to rule 10f–3 under the Investment Company Act. Among other provisions, the Investment Company Act regulates conflicts of interest in investment companies, requiring disclosure of material details about an investment company, and placing restrictions on certain mutual fund activities. The Department believes that the alternatives described in the SEC Releases referenced above are instructive in developing appropriate alternatives for credit ratings referenced in the Class Exemptions, in part because of the similar manner in which the SEC's rules and the Class Exemptions make use of such ratings, and also because of the similar standards of credit quality currently required in the rules and the Class Exemptions, or in the case of new rule 6a–5 and final rule 10f–3, required prior to their adoption.

In this regard, the Department considered new rule 6a–5 and final rule 10f–3 for purposes of proposing to amend PTE 75–1 and PTE 80–83, and considered new rule 6a–5 with respect to its proposed amendment of PTE 2006–16, in developing an alternative to a credit rating in one of the highest four rating categories, or ''investment grade.'' The Department also considered final rule 10f–3 and the proposed amendment to rule 2a–7 for purposes of proposing to amend PTE 81–8, in developing an alternative to a credit rating in one of the highest three rating categories. Finally, the Department also considered the proposed amendments to rules 2a–7 and 5b–3 for purposes of proposing to amend PTE 2006–16, in developing an alternative to a credit rating in one of the highest two rating categories.

1. New Rule 6a–5 and Final Rule 10f–3: Standard for Highest Four Ratings Categories or ''Investment Grade''; Standard for Highest Three Ratings Categories

Section 6(a)(5) of the Investment Company Act provides an exemption from certain of its provisions for business and industrial development companies (BIDCOs).[14] Under section 6(a)(5)(A)(iv) prior to its amendment by Dodd-Frank, BIDCOs seeking to rely on the exemption were limited in their purchases of securities issued by investment companies and private funds to:

(I) any debt security that is rated investment grade by not less than 1 nationally recognized statistical rating organization; or (II) any security issued by a registered open-end investment company that is required by its investment policies to

[10] The Department understands that ''investment grade'' is the common term for a credit rating in the highest four rating categories issued by a credit rating agency.

[11] See References to Credit Ratings in Certain Investment Company Act Rules and Forms, Release Nos. 33–9193, IC–29592; 76 FR 12896 (March 9, 2011).

[12] See Purchase of Certain Debt Securities by Business and Industrial Development Companies Relying on an Investment Company Act Exemption, Release No. IC–30268; 77 FR 70117 (November 23, 2012).

[13] See References to Ratings of Nationally Recognized Statistical Rating Organizations, Release Nos. 34–60789, IC–28939; 74 FR 52358 (October 9, 2009).

[14] See 15 U.S.C. 80a–6(a)(5)(A). BIDCOs are companies that operate under state statute that provide direct investment and loan financing, as well as managerial assistance to state and local enterprises. Because BIDCOs invest in securities, they frequently meet the definition of ''investment compan[ies]'' under the Investment Company Act and would otherwise be required to register and be regulated under the Act in the absence of an exemption.

invest not less than 65 percent of its total assets in securities described in subclause (I) or securities that are determined by such registered open-end investment company to be comparable in quality to securities described in subclause (I).

The Department understands that an ''investment grade'' rating is a common term for a rating in one of the highest four rating categories by a credit rating agency.

Section 939(c) of Dodd-Frank amended section 6(a)(5)(A)(iv) of the Investment Company Act, effective July 21, 2012, to eliminate the reference to ''investment grade.'' As amended, the section references debt securities that meet ''such standards of credit-worthiness as the Commission shall adopt.'' Rule 6a-5 sets forth a credit-worthiness standard to replace the credit rating reference to ''investment grade'' that Dodd-Frank eliminated from section 6(a)(5)(A)(iv).

Under rule 6a–5, the requirements for creditworthiness under section 6(a)(5)(A)(iv)(I) would be satisfied if the board of directors or members of the BIDCO (or a delegate thereof) determines that the debt security is:

(a) subject to no greater than moderate credit risk and (b) sufficiently liquid that the security can be sold at or near its carrying value within a reasonably short period of time.

The determination is made at the time of the purchase.[15]

In the Investment Company Final Rule, the SEC stated that this standard is designed to limit purchases of securities to those of ''sufficiently high credit quality that they are likely to maintain a fairly stable market value and may be liquidated easily . . ..'' The SEC provided the following explanation of moderate credit risk:

Debt securities (or their issuers) subject to a moderate level of credit risk would demonstrate at least average credit-worthiness relative to other similar debt issues (or issuers of similar debt). Moderate credit risk would denote current low expectations of default risk associated with the security, with an adequate capacity for payment by the issuer of principal and interest.

The SEC noted further that in making such determinations, ''a BIDCO's board of directors or members (or its or their delegate) can also consider credit quality reports prepared by outside sources, including NRSRO ratings, that the BIDCO board or members conclude are credible and reliable for this purpose.''

[15] For purposes of the amendments to the Class Exemptions, the Department has interpreted carrying value as equivalent to fair market value.

In the Investment Company Final Rule, the SEC noted that the standard of credit-worthiness in rule 6a–5 is similar to that previously adopted for rule 10f–3 under the Investment Company Act, amended effective November 12, 2009, to remove references to NRSRO ratings. Section 10(f) of the Investment Company Act prohibits a registered investment company from knowingly purchasing or otherwise acquiring, during the existence of any underwriting or selling syndicate, any security for which a principal underwriter of the security has certain relationships with the registered investment company, such as an officer, director, or investment adviser. Rule 10f–3 contains a definition of ''eligible municipal securities'' with respect to securities that may be purchased during an affiliated underwriting under certain conditions. Prior to the amendment of the rule, such eligible municipal securities were required to have:

an investment grade rating from at least one NRSRO; provided, that if the issuer of the municipal securities, or the entity supplying the revenues or other payments from which the issue is to be paid, has been in continuous operation for less than three years, including the operation of any predecessors, the securities shall have received one of the three highest ratings from an NRSRO.

As amended, the definition of eligible municipal securities in rule 10f-3 requires that the securities:

are sufficiently liquid that they can be sold at or near their carrying value within a reasonably short period of time and either: i. Are subject to no greater than moderate credit risk; or ii. If the issuer of the municipal securities, or the entity supplying the revenues or other payments from which the issue is to be paid, has been in continuous operation for less than three years, including the operation of any predecessors, the securities are subject to a minimal or low amount of credit risk.

In the 2009 NRSRO Rule Adopting Release, the SEC noted that securities with a minimal or low credit risk ''would be less susceptible to default risk (i.e., have a low risk of default) than those with moderate credit risk. These securities (or their issuers) also would demonstrate a strong capacity for principal and interest payments and present above average creditworthiness relative to other municipal or tax exempt issues (or issuers).''

Thus, in both new rule 6a–5 and final rule 10f–3, the SEC set forth a standard to replace ''investment grade'' that requires that the security be:

- Sufficiently liquid that it can be sold at or near its carrying value within a reasonably short period of time, and
- subject to no greater than moderate credit risk.

Additionally, with respect to a requirement that a security be rated in one of the three highest rating categories, the SEC in final rule 10f–3 created a standard of credit-worthiness that would require the security to be:

- Sufficiently liquid that it can be sold at or near its carrying value within a reasonably short period of time, and
- subject to a minimal or low amount of credit risk.

The Department likewise proposes herein to adopt similar standards to replace references in the Class Exemptions to the highest four rating categories or ''investment grade,'' and the highest three rating categories.

2. Proposed Rule 2a–7: Standard for Highest Two Rating Categories

Investment Company Act rule 2a–7, which governs the operation of money market funds, exempts money market funds from certain of its provisions regarding the calculation of current net asset value per share.[16] A fund that relies on rule 2a–7 may use special valuation and pricing procedures that help the fund maintain a stable net asset value per share (typically $1.00). To facilitate maintaining a stable net asset value, among other conditions, rule 2a–7 limits money market funds to investing in debt obligations that are at the time of acquisition, ''eligible securities,'' meaning they have: received a rating from the Requisite NRSROs[17] in one of the two highest short-term rating categories.[18]

Rule 2a–7 further requires that securities purchased by money market

[16] 17 CFR 270.2a–7.

[17] ''Requisite NRSROs'' are defined as any two nationally recognized statistical rating organizations that have issued a rating with respect to a security or class of debt obligations of an issuer or, if only one such organization has issued a rating with respect to such security or class of debt obligations of an issuer at the time the investment company acquires the security, that nationally recognized statistical rating organization. A Requisite NRSRO must also be a ''Designated NRSRO,'' which is generally any one of at least four nationally recognized statistical rating organizations that a money market fund's board of directors has designated for use, and determines at least annually issues credit ratings that are sufficiently reliable for the fund to use in determining whether a security is an eligible security. After enactment of Dodd-Frank, money market funds received SEC staff assurances that the staff would not recommend enforcement action if a money market fund board did not designate NRSROs (and did not make certain related disclosures) before the SEC made any modifications to rule 2a–7 as mandated by section 939A of Dodd-Frank. See Investment Company Institute, SEC No-Action Letter (Aug. 19, 2010).

[18] Eligible securities also must have a remaining maturity of 397 calendar days or less. Unrated securities of comparable credit quality can also meet the definition of ''eligible security.''

funds are those ''that the fund's board of directors determines present minimal credit risks (which determination must be based on factors pertaining to credit quality in addition to any rating assigned to such securities by a Designated NRSRO).'' [19]

In order to implement Section 939A of Dodd-Frank, the SEC proposed to amend rule 2a–7 of the Investment Company Act to remove the references to credit ratings discussed above and replace them with alternative standards of credit worthiness that are designed to achieve the same degree of credit quality as the ratings requirement currently in use. Under the proposed amendment, the requirement of rule 2a–7 regarding minimal credit risks would be moved into the definition of ''eligible security.'' Thus, an eligible security would be a security that:

> the fund's board of directors determines presents minimal credit risks (which determination must be based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations).

In the Investment Company Proposal, the SEC explained that an issuer that would satisfy the credit-worthiness requirement associated with an eligible security should have ''a very strong ability to repay its short-term debt obligations, and a very low vulnerability to default.''

Furthermore, in the Investment Company Proposal, the SEC noted that money market fund boards of directors ''would still be able to consider quality determinations prepared by outside sources, including NRSRO ratings, that fund advisers conclude are credible and reliable, in making credit risk determinations.'' However, the SEC observed further that fund advisers would be expected ''to understand the method for determining the rating and make an independent judgment of credit risks, and to consider an outside source's record with respect to evaluating the types of securities in which the fund invests.''

Thus, the SEC proposed to amend the requirement in rule 2a–7 that an ''eligible security'' has received a rating from certain NRSROs in one of the highest two rating categories with a standard of credit-worthiness that would require that the security:

- Present minimal credit risks based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations.

The Department likewise proposes herein to adopt a similar standard in order to replace references in the Class Exemptions to credit ratings in one of the highest two rating categories.

3. Proposed Rule 5b–3: Standard for Highest Two Rating Categories

Rule 5b–3 under the Investment Company Act permits funds to treat the acquisition of a repurchase agreement as an acquisition of securities collateralizing the repurchase agreement in determining whether the fund is in compliance with certain provisions of the Investment Company Act, if the obligation of the seller to repurchase the securities from the fund is ''collateralized fully.'' [20] In order for a repurchase agreement to be collateralized fully under rule 5b–3(c)(1), among other things, the collateral for the repurchase agreement must consist entirely of:

> (A) cash items; (B) government securities; (C) securities that at the time the repurchase agreement is entered into are rated in the highest rating category by the [r]equisite NRSROs; or (D) certain comparable unrated securities.

In response to section 939A of Dodd-Frank, the SEC has proposed to eliminate the credit ratings requirement in rule 5b–3(c)(1) and set forth a new standard of credit-worthiness applicable to collateral other than cash or government securities. Under the proposed amendment to rule 5b–3, the requirements for credit-worthiness under rule 5b–3(c)(1) would be satisfied if the fund's board of directors (or its delegate) determines that the purchased securities are:

> (i) Issued by an issuer that has the highest capacity to meet its financial obligations; and
>
> (ii) sufficiently liquid that they can be sold at approximately their carrying value in the ordinary course of business within seven calendar days.

The determination is made at the time the repurchase agreement is entered into.

In the Investment Company Proposal, the SEC stated that it designed ''the proposed amendments to retain a degree of credit quality similar to that under the current rule.'' The SEC provided the following description of an issuer with the ''highest capacity'' to meet its financial obligations:

> [an issuer with] an exceptionally strong capacity to repay its short or long-term debt obligations, as appropriate, the lowest expectation of default, and a capacity for repayment of its financial commitments that is the least susceptible to adverse effects of changes in circumstances.

The SEC further noted that in making such determinations, ''fund boards (or their delegates) would still be able to consider analysis provided by outside sources, including credit agency ratings, that they conclude are credible and reliable, for purposes of making these credit quality evaluations.''

The SEC observed in the Investment Company Proposal that, securities trading in a secondary market at the time of the acquisition of the repurchase agreement would satisfy the proposed liquidity standard.

In the Investment Company Proposal, the SEC explained that the proposed amendments were designed:

> to be clear enough to permit a fund board or fund investment adviser to make a determination regarding credit quality and liquidity that would achieve the same objectives that the credit rating requirement was designed to achieve, i.e., to limit collateral securities to those that are likely to retain a fairly stable market value and that, under ordinary circumstances, the fund would be able to liquidate quickly in the event of a counterparty default.

Thus, in the proposed amendment to rule 5b–3, the SEC proposed a new standard of credit-worthiness to replace the reference to a credit rating in the highest rating category that would require a security to be:

- Issued by an issuer that has the highest capacity to meet its financial obligations, and
- sufficiently liquid that it can be sold at approximately its carrying value in the ordinary course of business within seven calendar days.

The Department proposes herein to make use of certain portions of the standard set forth above, including that pertaining to the liquidity of the securities, to replace references in the

[19] Under rule 2a–7(a), an eligible security is generally either a ''first tier security'' or a ''second tier security.'' First tier securities are defined as (a) securities possessing a short-term rating from the requisite NRSROs in the highest short-term rating category for debt obligations, (b) comparable unrated securities, (c) securities issued by money market funds, or (d) government securities, as defined in the Investment Company Act. Second tier securities, in turn, are defined as any eligible securities that are not first tier securities. The Department has determined not to adopt the ''first tier'' and ''second tier'' labels utilized in Rule 2a–7 to describe securities rated in the highest and second highest rating categories, respectively, because such labels are unnecessary in the context of the Class Exemptions.

[20] The SEC explains in the Investment Company Proposal that a repurchase agreement functions economically as ''a loan from the fund to the counterparty, in which the securities purchased by the fund serve as collateral for the loan and are placed in the possession or under the control of the fund's custodian during the term of the agreement.'' Accordingly, the SEC notes that ''a fund investing in a repurchase agreement looks to the value and liquidity of the securities collateralizing the repurchase agreement rather than the credit quality of the counterparty for satisfaction of the repurchase agreement.''

Class Exemption to a credit rating in the highest rating category.

C. Class Exemptions

These proposed amendments to the Class Exemptions are designed to implement the mandate of section 939A(b) of Dodd-Frank to ''remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations.'' In this regard, the Department has designed the proposed amendments to retain the same degree of credit quality required under the Class Exemptions prior to the amendments, but without referencing or relying on credit ratings. The Department does not consider the changes proposed herein to be substantive in nature. Thus, for example, although the proposed amendment to PTE 75–1, Part III and Part IV, no longer refers to securities rated in one of the four highest rating categories, it is meant to capture securities that should generally qualify for that designation without relying on third-party credit ratings.

The Department recognizes that, where a fiduciary has neither the expertise nor the time to make an informed determination of credit quality, it may be appropriate as a matter of prudence for such fiduciary to seek out the advice and counsel of third parties. Furthermore, it should be noted that, while credit ratings may no longer serve as a basis, or threshold, of credit quality, section 939A of Dodd-Frank does not prohibit a fiduciary from using credit ratings as an element, or data point, in that analysis.

The Department notes that, in conducting an analysis of the credit quality of a particular financial instrument or person, a fiduciary should consider a variety of factors that may be applicable in making such determination. The following factors, derived from a recent SEC release regarding proposed changes to certain rules under the Securities Exchange Act of 1934 (the Exchange Act Proposal), may be considered relevant in assessing credit risk: [21]

- Credit spreads (i.e., the amount of credit risk a position in commercial paper and/or nonconvertible debt is subject to, based on the spread between the security's yield and the yield of Treasury or other securities, or based on credit default swap spreads that reference the security);
- Securities-related research (i.e., to what extent providers of securities-related research believe the issuer of the security will be able to meet its financial commitments, generally, or specifically, with respect to securities held);
- Internal or external credit risk assessments (i.e., whether credit assessments developed internally by a broker-dealer or externally by a credit rating agency, express a view as to the credit risk associated with a particular security);
- Default statistics (i.e., whether providers of credit information relating to securities express a view that specific securities have a probability of default consistent with other securities with a determined amount of credit risk);
- Inclusion on an index (i.e., whether a security, or issuer of the security, is included as a component of a recognized index of instruments that are subject to a determined amount of credit risk);
- Priorities and enhancements (i.e., the extent to which a security is covered by credit enhancements, such as overcollateralization and reserve accounts, or has priority under applicable bankruptcy or creditors' rights provisions);
- Price, yield and/or volume (i.e., whether the price and yield of a security or a credit default swap that references the security are consistent with other securities that the broker-dealer has determined are subject to a certain amount of credit risk and whether the price resulted from active trading); and
- Asset class-specific factors (e.g., in the case of structured finance products, the quality of the underlying assets).

The Department observes that the SEC's list above was not meant to be exhaustive or mutually exclusive, and that the range and type of specific factors considered would vary depending on the particular securities that are reviewed.

The Department notes further that in making a determination of the relative credit quality of a particular financial instrument or entity, as well as in assigning a relative value to a third party's advice or a credit rating, a plan fiduciary would continue to be subject to section 404 of ERISA. Moreover, such fiduciary would remain subject to the other conditions of relief as set forth in the Class Exemptions, including, but not limited to, any requirements regarding the maintenance of records which are necessary to enable the persons described therein to determine whether the conditions of such Class Exemption have been met.

1. PTE 75–1

PTE 75–1, granted soon after the enactment of ERISA, provides relief for certain transactions that were customary at the time between plans and broker-dealers or banks, including a plan's acquisition of securities from a member of an underwriting syndicate of which a plan fiduciary or its affiliate is a member, and an employee benefit plan's purchase or sale of securities for which the plan's fiduciary is a ''market maker,'' to or from such fiduciary or its affiliate.

Specifically, PTE 75–1, Part III, provides relief from the restrictions of section 406 of ERISA and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, for an employee benefit plan's acquisition of securities during the existence of an underwriting syndicate, from a person other than a fiduciary with respect to the plan, where a fiduciary of such employee benefit plan is a member of the underwriting syndicate. Section III(a) provides further that no fiduciary who is involved in any way in causing the plan to make such purchase may be a manager of such underwriting or selling syndicate. In this regard, section (a) defines a manager as any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the securities being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

Part IV of PTE 75–1 provides relief from the restrictions of section 406 of ERISA and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, for a plan's purchase or sale of securities from or to a ''market maker'' with respect to such security who is also a fiduciary with respect to the plan or an affiliate of such fiduciary. Part IV provides further that at least one person other than the fiduciary must be a market-maker in such securities, and the transaction must be executed at a net price to the plan for the number of shares or other units to be purchased or

[21] The factors listed below were published in the SEC's proposing release entitled, Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934, Release No. 34–64352; 76 FR 26550, at 26552–26553 (May 6, 2011). While such factors derive from the SEC's proposed amendment to Rule 15c3–1, which requires a broker-dealer to determine whether a security satisfies a ''minimal amount of credit risk,'' the Department believes that they may, where appropriate, be helpful in connection with a fiduciary's determination of credit quality under the amendments proposed herein.

sold in the transaction which is more favorable to the plan than that which such fiduciary, acting in good faith, reasonably believes to be available at the time of such transaction from all other market makers in such securities.

The relief afforded in Part III and Part IV of PTE 75–1 is also conditioned upon, among other things, the issuer of the securities having been in continuous operation for not less than three years, including the operations of any predecessors. However, several exceptions to this condition exist with respect to each exemption, including an exception for securities that are ''non-convertible debt securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.''

The condition requiring the issuer of securities in an underwriting to have been in continuous operation for at least three years bolsters the quality of the underwritten securities, by ensuring that the issuer is an established entity that has been operating as a business for a continuous period of time. Securities issued by such an issuer should be more predictable in terms of price and trading volume stability than securities issued by unproven entities with shorter operating histories. Ostensibly, debt securities rated as investment grade or higher, by an unrelated third party in the business of evaluating credit quality, possess attributes of credit quality that provide more predictability in terms of price, volatility, and ultimate payment of principal. Thus, the Department is cognizant that any substitute for credit ratings must provide the same level of protection for plans entering into the transactions.

The Department is proposing to replace the references to credit ratings in Part III and Part IV of PTE 75–1 with the requirement that, ''[a]t the time of acquisition, such securities are non-convertible debt securities (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.'' Thus, as amended, condition (c)(1) of Part III and condition (a)(1) of Part IV, of PTE 75–1, would require securities to be issued by a person that has been in continuous operation for not less than three years, including the operations of any predecessors, unless, among other exceptions, the fiduciary directing the plan in such transaction has made a determination that, at the time they are acquired, such securities satisfy the new standard described above.

For purposes of this amendment, debt securities subject to a moderate level of credit risk should possess at least average credit-worthiness relative to other similar debt issues. Moderate credit risk would denote current low expectations of default risk, with an adequate capacity for payment of principal and interest.

The Department views the new proposed standard as reflecting the same level of credit quality as required prior to this amendment. The alternative standard described above is modeled on the SEC's new rule 6a–5 and final rule 10f–3 of the Investment Company Act. New rule 6a-5 and one element of the final amendments to rule 10f–3 each set forth a standard that replaced a reference to an ''investment grade'' rating, which the Department understands is the same as a reference to one of the four highest rating categories issued by at least one nationally recognized statistical rating organization. Furthermore, because PTE 75–1, Part III, and final rule 10f–3 involve the acquisition of securities in an underwriting where there is a relationship between the acquiring fund or entity and a member of the underwriting syndicate, it is relevant that the standard of credit quality required under each rule is similar.

The proposed standard is also appropriate for PTE 75–1, because it addresses concerns that an acquirer of securities might be harmed by a purchase of illiquid securities. In this regard, the proposed standard preserves the purpose of the original condition in paragraphs (c)(1) of Part III and (a)(1) of Part IV of PTE 75–1, by restricting fiduciaries' acquisitions to purchases of securities of sufficiently high credit quality. As stated above, in making these determinations, a fiduciary would not be precluded from considering credit quality reports prepared by outside sources, including credit ratings prepared by credit rating agencies, that they conclude are credible and reliable for this purpose.

2. PTE 80–83

PTE 80–83 generally provides relief for the purchase or acquisition in a public offering of securities by a fiduciary, on behalf of an employee benefit plan, solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest with respect to the plan. Part C of the exemption provides relief from the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of ERISA and the taxes imposed by reason of section 4975(c)(1)(A) through (E) of the Code, for the purchase or acquisition in a public offering of securities, by a fiduciary which is a bank or affiliate thereof, on behalf of a plan solely because the proceeds of the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to such fiduciary or an affiliate thereof. In the event that such fiduciary of the plan ''knows'' that the proceeds of the issue will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to such fiduciary or affiliate thereof, the relief in Part C is conditioned upon, among other things, the issuer of such securities having been in continuous operation for not less than three years, including the operations of any predecessors, unless such securities are non-convertible debt securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.

As in PTE 75–1, Part III and Part IV, the three years continuous operation condition bolsters the quality of the underwritten securities by ensuring that the issuer is an established entity that has been operating as a business for a continuous period of time. In crafting an alternative to credit ratings to be used as an exception to the three years continuous operation condition, the Department has likewise employed an alternative that provides similar protection for plans entering into the transactions.

The Department is proposing to amend condition 3 of Part C of PTE 80–83 to replace the reference to credit ratings with a requirement that, ''at the time of acquisition, such securities are non-convertible debt securities (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.'' For purposes of this amendment, debt securities subject to a moderate level of credit risk should possess at least average credit-worthiness relative to other similar debt issues. Moderate credit risk would denote current low expectations of default risk, with an adequate capacity for payment of principal and interest.

The Department views the new proposed standard as reflecting the same level of credit quality as required prior to this amendment. It is appropriate that the proposed alternative is modeled on the SEC's new rule 6a–5 and final rule 10f–3 of the Investment Company Act. New rule 6a–5 and one element of the final amendments to rule 10f–3 each supplied a standard that replaced the reference to an ''investment grade'' rating, which the Department

understands is the same as a reference to a rating in one of the four highest rating categories by at least one nationally recognized statistical rating organization. The alternative standard in the proposed amendment to PTE 80–83 also addresses concerns that an acquirer of securities might be harmed by such person's purchase of illiquid securities. The alternative preserves the level of protection afforded by the original standard, by requiring a fiduciary to make a prudent determination that a security acquired in an underwriting is of a sufficiently high credit quality. In making the proposed determination of credit quality, a fiduciary may consider information provided by third parties, including credit ratings issued by credit rating agencies.

3. PTE 81–8

PTE 81–8 provides exemptive relief from the restrictions of section 406(a)(1)(A), (B), and (D) of ERISA and the taxes imposed by reason of section 4975(c)(1)(A), (B), and (D) of the Code, for the investment of employee benefit plan assets which involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of certain short-term investments issued by a party in interest, including commercial paper. As a condition of exemptive relief, paragraph II(D) requires that, with respect to an acquisition or holding of commercial paper, at the time it is acquired, such commercial paper must be ranked in one of the three highest rating categories by at least one nationally recognized statistical rating service. The original condition was incorporated into PTE 81–8 to allow fiduciaries who make investment decisions regarding the short-term investments of a plan to choose from a broad range of issues of commercial paper while assuring that the quality of the issue had been assessed by an independent third party.

The Department proposes to amend paragraph II(D) to delete the reference to the credit rating of commercial paper and replace it with the requirement that, ''at the time of acquisition, the commercial paper is (i) subject to a minimal or low amount of credit risk based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations, and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.'' Commercial paper subject to a minimal or low credit risk would be less susceptible to default risk (i.e., have a low risk of default) than those with moderate credit risk. These instruments also would demonstrate a strong capacity for principal and interest payments and present above-average credit-worthiness relative to other issues of commercial paper.

The Department views the new proposed standard as reflecting the same level of credit quality required prior to this amendment. The ''minimal or low amount of credit risk'' standard in the proposed alternative is modeled on one element of the SEC's final rule 10f–3 of the Investment Company Act, described above, which was developed as an alternative to a credit rating in one of the highest three rating categories. In developing the alternative standard for PTE 81–8, as amended, the Department found it relevant that final rule 10f–3 provides an alternative to the same credit rating category that is currently in PTE 81–8.

In addition, the Department considered the language ''based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations'' from the SEC's proposed amendment to rule 2a–7. The Department understands rule 2a–7 to apply to mutual funds (more specifically, money market funds) that invest in high quality, short-term debt instruments. As commercial paper is a short-term debt instrument as well, the Department determined that it would be appropriate to include such language in its alternative credit standard to reflect an increased focus on the issuer's ability to meet its short-term obligations.

The Department notes that the preamble to PTE 81–8 (46 FR 7511 at 7512, January 23, 1981) states that, based on the record, the Department was unable to conclude that unrated issues of commercial paper sold in a private offering ''have such protective characteristics that affected plans would not need the independent safeguards that the rating condition is intended to provide,'' which may suggest that a credit rating by an independent third party is an important condition of the relief provided. Under section 939A of Dodd-Frank, the Department cannot continue to mandate that commercial paper acquired by a plan pursuant to PTE 81–8 must receive a specified credit rating. However, the Department also noted in PTE 81–8, that a determination whether an investment in commercial paper is appropriate for a plan should be determined ''by the responsible plan fiduciaries, taking into account all the relevant facts and circumstances.'' For purposes of this amendment, the Department believes that a fiduciary's determination of the credit quality of commercial paper according to the proposed standard should, as a matter of prudence, include the reports or advice of independent third parties, including where appropriate, such commercial paper's credit rating.

4. PTE 95–60

PTE 95–60 was granted in response to the Supreme Court's decision in *John Hancock Mutual Life Insurance Co.* v. *Harris Trust & Savings Bank (Harris Trust),*[22] holding that those funds allocated to an insurer's general account pursuant to a contract with a plan that vary with the investment experience of the insurance company are ''plan assets'' under ERISA. Harris Trust created uncertainty with respect to a number of exemptions previously granted by the Department in connection with the operation of asset pool investment trusts that issue asset-backed, pass-through certificates to plans. Specifically, the Department had previously granted PTE 83–1 (48 FR 895, January 7, 1983) [23] and the ''Underwriter Exemptions,'' [24] which were conditioned, among other things, upon the certificates that were purchased by plans not being subordinated to other classes of certificates issued by the same trust. Because, in a typical asset pool investment trust, one or more classes of subordinated certificates are often purchased by life insurance companies, in holding that insurance company general accounts may be considered ''plan assets,'' Harris Trust raised the potential for servicers and trustees of pools to be engaging in prohibited transactions for the same acts involving the operation of trusts which would be exempt if the certificates were not subordinated.

PTE 95–60 provides exemptive relief for certain transactions engaged in by insurance company general accounts in which an employee benefit plan has an interest, if certain specified conditions are met. Under Section III, additional relief is provided from the restrictions of sections 406(a), 406(b) and 407(a) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code for certain

[22] 510 US 86 (1993).

[23] PTE 83–1 provides relief for the operation of certain mortgage pool investment trusts and the acquisition and holding by plans of certain mortgage-backed pass-through certificates evidencing interests therein.

[24] The Underwriter Exemptions are comprised of a number of individual exemptions in which credit ratings have been used extensively (e.g., PTE 2009–31 (74 FR 59003, November 16, 2009)), which provide relief for the operation of certain asset pool investment trusts and the acquisition and holding by plans of certain asset-based pass-through certificates representing interests in those trusts.

transactions entered into in connection with the servicing, management, and operation of a trust (a Trust), described in PTE 83–1 or in one of the Underwriter Exemptions, in which an insurance company general account has an interest as a result of its acquisition of certificates issued by the Trust.

Section III(a)(2) of PTE 95–60 requires that the conditions of either PTE 83–1 or an applicable Underwriter Exemption be met other than the requirements that the certificates acquired by the general account (A) not be subordinated to the rights and interests evidenced by other certificates of the same trust and (B) receive a rating that is in one of the three highest generic rating categories from an independent rating agency. Because PTE 83–1 only requires non-subordination with respect to the acquired certificates, and does not have a credit rating reference or requirement, the exception from the ratings requirement applies only to the Underwriter Exemptions.

The Department proposes to delete the reference in Section III(a)(2)(B) pertaining to the credit ratings of certificates acquired by a general account and replace it with a general reference to the credit quality of such certificates. Thus, Section III(a)(2) of PTE 95–60, as amended, would provide that ''[t]he conditions of either PTE 83–1 or the relevant Underwriter Exemption are met, except for the requirements that: (A) The rights and interests evidenced by the certificates acquired by the general account are not subordinated to the rights and interests evidenced by other certificates of the same Trust, and (B) the certificates acquired by the general account have the credit quality required under the relevant Underwriter Exemption at the time of such acquisition.''

The Department believes that this modification will bring PTE 95–60 into compliance with the mandate in section 939A of Dodd-Frank that any reference to or requirement of reliance on credit ratings be removed from the Department's rules and regulations. Because the Department has not proposed to amend the Underwriter Exemptions, this proposed amendment cannot refer to a specific alternative to credit ratings in such exemptions. Nevertheless, because Section III(a)(2), as amended, would state that the certificates are not required to meet the standard of credit quality referred to in the conditions of the Underwriter Exemptions, the Department believes that the amended requirement would be consistent with section 939A(b) of Dodd-Frank. Additionally, in the Department's view, there should not be any substantive distinction between a person's compliance with the condition in paragraph III(a)(2)(B) prior to or after this amendment takes effect.

5. PTE 97–41

Section II of PTE 97–41 provides relief from sections 406(a) and 406(b)(1) and (2) of ERISA and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, for the purchase, by an employee benefit plan, of shares of one or more mutual funds in exchange for the assets of the plan, transferred in-kind to the mutual fund from a collective investment fund (CIF) maintained by a bank or plan adviser where such bank or plan adviser is the investment adviser to the mutual fund and also a fiduciary of the plan, in connection with a complete withdrawal of the plan's assets from the CIF. Exemptive relief is conditioned upon, *inter alia,* Section II(c), the ''pro rata division rule,'' which provides that the transferred assets must constitute the plan's pro rata portion of the assets that were held by the CIF immediately prior to the transfer. However, Section II(c) provides further that, notwithstanding the foregoing, the allocation of fixed income securities held by a CIF among plans on the basis of each plan's pro rata share of the aggregate value of such securities will not fail to meet the requirements of the pro rata division rule if (1) the aggregate value of such securities does not exceed one percent of the total value of the assets held by the CIF immediately prior to the transfer, and (2) such securities have the same coupon rate and maturity, and at the time of transfer, the same credit ratings from nationally recognized statistical rating organizations.

The exception to the general pro rata division rule in Section II(c) ensures that plans can avoid the transaction costs involved in liquidating small positions in fixed-income securities that are not divisible, or that can be divided only at substantial cost, prior to their maturity. In these situations, equivalent, small investments of fixed-income securities are treated as fungible for allocation purposes if such securities have the same coupon rates, maturities and credit ratings at the time of the transaction. This requirement ensures that all plans receive securities that have equivalent terms and features and that such fixed-income securities will be allocated among the plans in a manner such that each plan receives its pro rata share of the value of such securities.

The Department is proposing to amend the exception found in Section II(c) by deleting the requirement found in subsection (2) that the securities transferred in-kind from a CIF to the mutual fund have the same credit ratings and replacing it with a requirement that such securities are of the same credit quality. Section II(c)(1) and (2), as amended, would provide that the allocation of fixed-income securities held by a CIF among the plans on the basis of each plan's pro rata share of the aggregate value of such securities will not fail to meet the requirements of Section II(c) if ''(1) the aggregate value of such securities does not exceed one percent of the total value of the assets held by the CIF immediately prior to the transfer, and (2) such securities have the same coupon rate and maturity, and at the time of transfer, the same credit quality.''

In making the determination as to the credit quality of fixed income securities for purposes of this condition, the Department notes that a fiduciary should, to the extent possible, engage in credit quality comparisons of securities using the same standards (e.g., employing the same metrics) for each set of securities. The Department believes that an ''apples to apples'' comparison of the credit quality of each security taking into account the same variables would comply with the proposed amendment to the condition set forth in Section II(c)(2). Furthermore, the Department notes that a fiduciary may rely on reports and advice given by independent third parties, including ratings issued by rating agencies.

6. PTE 2006–16

Sections I(a) and (b) of PTE 2006–16 provide exemptive relief from section 406(a)(1)(A) through (D) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code for the lending of securities that are assets of an employee benefit plan to certain banks and broker-dealers that are parties in interest with respect to the plan. Section I(c) of PTE 2006–16 provides exemptive relief from section 406(b)(1) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code for the payment to a fiduciary of compensation for services rendered in connection with loans of plan assets that are securities.

Section II(b) of PTE 2006–16 conditions the relief provided under Sections I(a) and (b) upon the plans' receipt from the borrower, by the close of the lending fiduciary's business on the day in which the securities lent are delivered to the borrower, of either ''U.S. Collateral,'' or ''Foreign Collateral,'' as such terms are defined in

Section V of the exemption. Section V(f)(2) defines ''Foreign Collateral'' to include ''foreign sovereign debt securities provided that at least one nationally recognized statistical rating organization has rated in one of its two highest categories either the issue, the issuer or guarantor.'' Section V(f)(4) defines ''Foreign Collateral'' to include ''irrevocable letters of credit issued by a [f]oreign [b]ank, other than the borrower or an affiliate thereof, which has a counterparty rating of investment grade or better as determined by a nationally recognized statistical rating organization.''

The Department is proposing to amend Section V(f)(2) to delete the reference to credit ratings and provide that ''Foreign Collateral'' will include ''foreign sovereign debt securities that are (i) subject to a minimal amount of credit risk, and (ii) sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days.''

The credit risk associated with securities that present ''minimal credit risks'' would differ from that of the highest credit quality securities only to a small degree. Thus, an issuer that would satisfy the credit-worthiness requirement associated with foreign sovereign debt securities should have a very strong ability to repay its debt obligations, and a very low vulnerability to default. In addition, the SEC has indicated its expectation that securities that trade in a secondary market at the time of their acquisition would satisfy the ''seven calendar day'' liquidity standard.[25]

The Department views the new standard as reflecting the same level of credit quality required prior to this amendment. The alternative standard of credit quality proposed for Section V(f)(2) of PTE 2006–16 takes a similar approach to the SEC's proposed amendments to rule 2a–7, which governs the securities that certain money market funds may hold as investments, and proposed amendments to rule 5b–3, which relates to funds entering into repurchase agreements that are collateralized with certain high credit-quality securities, as described above.

The Department believes that the ''minimal'' credit risk standard in the proposed alternative to credit ratings in rule 2a–7 is an appropriate model for the alternative standard of credit quality proposed in Section V(f)(2) of PTE 2006–16, as the current level of credit worthiness required under both provisions reflects credit ratings in one of the two highest rating categories. However, the Department understands that, whereas rule 2a–7 currently utilizes a short-term rating, foreign sovereign debt securities described in Section V(f)(2) could comprise either long-term or short-term securities. Therefore, in formulating the proposed alternative standard of credit quality in Section V(f)(2), the Department did not include in its proposed standard the language ''based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations.'' However, in the case of a short-term foreign sovereign debt security used as collateral, fiduciaries may wish to include the issuer's ability to meet its short term obligations as a factor in its evaluation of the security's credit quality.

In addition to the ''minimal'' credit risk standard of the proposed amendment, the Department believes that the liquidity requirement proposed in rule 5b–3 (''sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days'') is appropriate for inclusion in the alternative standard of credit quality proposed in Section V(f)(2) of PTE 2006–16, because the economic considerations and regulatory framework underpinning securities repurchase agreements is similar to that supporting securities lending transactions.

The Department is also proposing to amend Section V(f)(4) to delete the reference to credit ratings and provide that ''Foreign Collateral'' will include ''irrevocable letters of credit issued by a Foreign Bank, other than the borrower or an affiliate thereof, provided that, at the time the letters of credit are issued, the Foreign Bank's ability to honor its commitments thereunder is subject to no greater than moderate credit risk.'' The Department notes that, where a Foreign Bank's ability to honor its commitment under a letter of credit is subject to a moderate level of credit risk, such bank would demonstrate at least average credit-worthiness relative to other issuers of similar debt. Moderate credit risk would denote current low expectations of default risk, with an adequate capacity for payment of principal and interest.

The Department views the new standard as reflecting the same level of credit quality required prior to this amendment. The proposed alternative described for Section V(f)(4) is modeled after the SEC's new rule 6a–5 of the Investment Company Act, described above, which adopts an alternative to a credit rating of investment grade, or a credit rating in one the four highest rating categories.[26] In particular, the Department has modeled the new standard of credit quality for PTE 2006–16 on the credit quality element of the standard in rule 6a–5; as such, the proposed amendment focuses on the issuing bank's ability to honor its commitment under the letter of credit. Furthermore, in developing the alternative standard for Section V(f)(4) of PTE 2006–16, as amended, the Department found it relevant that the standards adopted in new rule 6a–5 and proposed in amendments to Section V(f)(4) of PTE 2006–16 are designed to reflect the same level of credit quality as the credit ratings they replaced in section 6(a)(5)(A)(iv) of the Investment Company Act and would replace in Section V(f)(4), respectively.

Finally, Lending Fiduciaries making determinations of credit quality under Sections V(f)(2) and V(f)(4) of PTE 2006–16 would still be able to consider credit quality determinations prepared by outside sources, including credit ratings issued by rating organizations, that such fiduciaries conclude are credible and reliable, in making determinations of credit worthiness.

7. Request for Comment Regarding Modifications to Class Exemptions

The Department is requesting comments regarding all aspects of these proposed amendments. In this regard, the Department specifically requests comments regarding whether the alternatives for credit ratings described herein represent adequate substitutes for credit ratings by rating organizations, taking into account the different Class Exemptions making use of such ratings, and the costs to comply with the alternatives, and invites comments on additional or alternative credit standards for consideration by the Department. As stated above, any suggested alternative to a credit rating should retain as close as possible the original intent of the standard in its related Class Exemption. Furthermore, the Department will consider the SEC's treatment of comments received in response to its proposals modifying the use of credit ratings as part of its compliance with section 939A and 939(c) of Dodd-Frank.

[25] See Investment Company Proposal, supra note 11, at text following n.54.

[26] As noted above, the SEC adopted rule 6a–5 under the Investment Company Act as directed by section 939(c) of Dodd-Frank, which eliminates a statutory condition requiring that certain securities have received a credit rating of investment grade, and instead requires that the securities ''meet such standards of creditworthiness as the Commission shall adopt.''

In addition to the comments requested above, the Department requests comments on guidance provided in connection with the term ''moderate credit risk'' as used in the proposed amendments to PTEs 75–1, 80–83, and 2006–16. Specifically, the Department solicits input on whether average credit-worthiness relative to other similar issues or issuers is an appropriate point of reference to associate with a moderate level of credit risk, as used in the Class Exemptions. The Department also requests comments regarding the inclusion of a liquidity requirement as part of its standard of credit-worthiness proposed for use in the Class Exemptions. In this regard, the Department is interested in commenters' views as to whether a liquidity requirement contributes to the protective characteristics of the relevant standard of credit-worthiness proposed for use in the applicable Class Exemptions, and invites comments on alternative liquidity requirements for consideration by the Department or whether the absence of such a requirement is more appropriate. Any comment received in this regard should explain in detail the commenter's rationale, including how the presence or absence of a liquidity requirement would be protective of plans, participants and their beneficiaries.

Finally, the Department requests comments regarding its use of ''fair market value'' for purposes of establishing a liquidity requirement in the proposed alternatives to credit ratings. Specifically, the Department requests comments concerning whether a different measure of value, such as ''carrying value'' or ''fair value,'' [27] would be more appropriate for the proposed alternatives to credit ratings and offer greater protections for employee benefit plans and their participants and beneficiaries engaging in the covered transactions. Any comment received in this regard should explain in detail the suggested measure of value, including how it is determined and why it is appropriate for use in a Class Exemption.

8. Underwriter Exemptions

The Underwriter Exemptions are comprised of a number of individual exemptions in which credit ratings have been used extensively (e.g., PTE 2009–31 (74 FR 59003, November 16, 2009)), which provide relief for the operation of certain asset pool investment trusts and the acquisition and holding by plans of certain asset-based pass-through certificates representing interests in those trusts. It is the Department's view that the Underwriter Exemptions, as individual prohibited transaction exemptions, are not federal regulations, and therefore section 939A of Dodd-Frank does not require their review and modification.

Accordingly, notwithstanding the deadline for compliance with section 939A, the Underwriter Exemptions will remain in force with no modifications to their credit rating requirements.[28] The Department is cognizant, however, of the Congressional intent to reduce reliance on credit ratings and is considering alternative standards for use instead of, or in addition to, existing requirements for credit ratings in granted individual prohibited transaction exemptions. Thus, the Department is requesting comments regarding such alternatives in addition to any comments regarding the Class Exemptions.

9. Executive Order 12866 Statement

Under Executive Order 12866 (the Executive Order), the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f) of the Executive Order, a ''significant regulatory action'' is an action that is likely to result in a rule (1) having an effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has determined that this action is significant within the meaning of section 3(f)(4) of the Executive Order, and accordingly, OMB has reviewed these proposed amendments to PTE 75–1, PTE 80–83, PTE 81–8, PTE 95–60, PTE 97–41, and PTE 2006–16 pursuant to the Executive Order.

10. Paperwork Reduction Act

According to the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (the PRA), no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512.

The Department has not made a submission to OMB at this time, because the proposed amendments do not revise the information collection requests contained in the following PTEs: PTE 75–1, which is approved by OMB under OMB Control Number 1210–0092; PTE 80–83, which is approved by OMB under OMB Control Number 1210–0064; PTE 81–8, which is approved by OMB under OMB Control Number 1210–0061; PTE 95–60, which is approved by OMB under OMB Control Number 1210–0114; PTE 97–41, which is approved by OMB under OMB Control Number 1210–0104; and PTE 2006–16, which is approved by OMB under OMB Control Number 1210–0065.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) Before an exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and

[27] As stated in FASB Accounting Standards Codification Topic 820, *Fair Value Measurements and Disclosures* (ASC Topic 820).

[28] The Department notes that it recently proposed an amendment to the Underwriter Exemptions (the Underwriter Proposal) that modified the definition of ''Rating Agency'' to eliminate specific references to named credit rating agencies. Pursuant to the Underwriter Proposal, the term ''Rating Agency'' would be defined using a general framework of self-executing criteria based on both (i) SEC rules applicable to NRSROs and (ii) the Department's own ''seasoning'' requirement for credit rating agencies. The Underwriter Proposal makes no modifications to the use of credit ratings in the Underwriter Exemptions, including the requirement that securities available for purchase by Plans generally must be rated in one of the three highest rating categories (or four in the case of certain ''Designated Transactions''). See Notice of Proposed Amendment to Prohibited Transaction Exemption 2007–05, 72 FR 13130 (March 20, 2007), Involving Prudential Securities Incorporated, et al., To Amend the Definition of ''Rating Agency,'' 77 FR 76773 (December 28, 2012).

protective of the rights of participants and beneficiaries of such plan;

(2) The proposed amendments, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) If granted, the proposed amendments will be applicable to a particular transaction only if the conditions specified in the class exemption are met.

WRITTEN COMMENTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments and requests for a hearing will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the address set forth above.

PROPOSED AMENDMENT

Under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, August 10, 1990), the Department proposes to amend the following class exemptions as set forth below:

1. PTE 75–1 is amended by making the following modifications:

(a) Part III, Paragraph (c)(1) is deleted in its entirety and replaced with the following: ''(1) At the time of acquisition, such securities are non-convertible debt securities (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.''

(b) Part IV, Paragraph (a)(1), is deleted in its entirety and replaced with the following: ''(1) At the time of acquisition, such securities are non-convertible debt securities (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.''

2. PTE 80–83 is amended by deleting Paragraph I(C)(3) in its entirety and replacing it with the following: ''(3) The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless at the time of acquisition, such securities are non-convertible debt securities (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.''

3. PTE 81–8 is amended by deleting Paragraph II(D) in its entirety and replacing it with the following: ''(D) With respect to an acquisition or holding of commercial paper (including an acquisition by exchange) occurring on or after the effective date of this amendment, at the time of acquisition, the commercial paper is (i) subject to a minimal or low amount of credit risk based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.''

4. PTE 95–60 is amended by deleting Paragraph III(a)(2)(B) in its entirety and replacing it with the following: ''(B) the certificates acquired by the general account have the credit quality required under the relevant Underwriter Exemption at the time of such acquisition.''

5. PTE 97–41 is amended by deleting Paragraph (II)(c)(2) in its entirety and replacing it with the following: ''(2) such securities have the same coupon rate and maturity, and at the time of transfer, the same credit quality.''

6. PTE 2006–16 is amended by making the following modifications to the definition of ''Foreign Collateral'' in Section V(f):

(a) Paragraph V(f)(2) is deleted in its entirety and replaced with the following: ''(2) foreign sovereign debt securities that are (i) subject to a minimal amount of credit risk, and (ii) sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days;'' and

(b) Paragraph V(f)(4) is deleted in its entirety and replaced with the following: ''(4) irrevocable letters of credit issued by a Foreign Bank, other than the borrower or an affiliate thereof, provided that, at the time the letters of credit are issued, the Foreign Bank's ability to honor its commitments thereunder is subject to no greater than moderate credit risk.''

Lyssa Hall,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2013–14790 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Anderson Behavioral Health, Inc. Marshville, North Carolina.

Principal Product/Purpose: The loan, guarantee, or grant is for the construction of a 13,000 sq. ft. administration building, six residence cottages, water, waste, and road infrastructure. It will also be used to purchase furniture and equipment.

The NAICS industry code for this enterprise is 623220 and comprises establishments primarily engaged in providing residential care and treatment for patients with mental health and substance abuse illnesses.

DATES: All interested parties may submit comments in writing no later than July 5, 2013. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210; or email *Dais.Anthony@dol.gov;* or transmit via fax (202)693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202)693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to

finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC, this 6th of June, 2013.

Gerri Fiala,

Acting Assistant Secretary, Employment and Training Administration.

[FR Doc. 2013–14855 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Spirit Pharmaceutical, Inc./Summerton, South Carolina

Principal Product/Purpose: The loan, guarantee, or grant application will be used to purchase and perform improvements to real estate and to purchase equipment associated with the opening of a new pharmaceutical manufacturing facility. The facility will ultimately create three hundred jobs in a distressed area of South Carolina. The NAICS industry codes for this enterprise are: 325411/325412 (Pharmaceutical and Medicine Manufacturing/Pharmaceutical Preparation Manufacturing)

DATES: All interested parties may submit comments in writing no later than July 5, 2013. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210; or email *Dais.Anthony@dol.gov;* or transmit via fax (202) 693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC, this 4th day of June, 2013.

Gerri Fiala,

Acting Assistant Secretary, Employment and Training Administration.

[FR Doc. 2013–14856 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,285]

U.S. Steel Tubular Products, Inc., Mckeesport Tubular Operations Division, Subsidiary of United States Steel Corporation, Mckeesport, Pennsylvania; Notice of Amended Certification

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated in response to a petition for Trade Adjustment Assistance (TAA) filed on December 20, 2012 on behalf of workers of U.S. Steel Tubular Products, McKeesport Tubular Operations Division, a subsidiary of United States Steel Corporation, McKeesport, Pennsylvania (hereafter collectively referred to as ''U.S. Steel Tubular Products'' or ''subject firm''). The workers' firm produces steel drill pipe and drill collars. The worker group does not include on-site leased workers.

On January 28, 2013, the Department issued a certification stating that the criteria set forth in Section 222(e) of the Trade Act of 1974, as amended, was met.

A review of the determination and the petition, however, revealed that the certification was erroneously issued. Specifically, the determination inaccurately stated that the petition was filed within a year of the March 3, 2011 publication in the **Federal Register** of the International Trade Commission's finding that dumping of drill pipes and drill collars from China negatively impacted U.S. firms engaged in production of those articles.

Although the subject firm was publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a category of determination that is listed in Section 222(e) of the Act, 19 U.S.C. 2272(e), the petition was filed more than a year after the publication of the ITC's findings in the **Federal Register**.

As such, the Department conducted another investigation to determine whether or not the petitioning worker group has met the criteria set forth in Section 222(a) or (b) of the Trade Act of 1974, as amended.

Based on previously-submitted information and additional information obtained during the amendment investigation, the Department has determined that Section 222(a)(1) has been met because a significant number or proportion of the workers at U.S. Steel Tubular Products have become

totally or partially separated, or are threatened with such separation; that Section 222(a)(2)(A)(i) has been met because U.S. Steel Tubular Products sales and/or production of steel drill pipe and drill collars have decreased; that Section 222(a)(2)(A)(ii) has been met because aggregate imports of articles like or directly competitive with steel drill pipe and drill collars produced by U.S. Steel Tubular Products have increased during the relevant period; and that Section 222(a)(2)(A)(iii) has been met because increased aggregate imports contributed importantly to the worker group separations and sales/production declines at U.S. Steel Tubular Products.

Conclusion

After careful review of previously-submitted facts and new facts obtained during the amendment investigation, I determine that workers of U.S. Steel Tubular Products, McKeesport Tubular Operations Division, a subsidiary of United States Steel Corporation, McKeesport, Pennsylvania, who were engaged in employment related to the production of steel drill pipe and drill collars, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of U.S. Steel Tubular Products, McKeesport Tubular Operations Division, a subsidiary of United States Steel Corporation, McKeesport, Pennsylvania, who became totally or partially separated from employment on or after December 19, 2011, through January 28, 2013, and all workers in the group threatened with total or partial separation from employment on January 28, 2013 through January 28, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 5th day of June, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–14853 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,396]

Sealy Mattress Company; A Subsidiary of Sealy, Inc.; Including On-Site Leased Workers From Express Employment Professionals; Portland, Oregon; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 16, 2013, United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), Local 330, requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Sealy Mattress Company, a subsidiary of Sealy, Inc., Portland, Oregon (subject firm). The Department's Notice of Determination was issued on April 15, 2013 and was published in the **Federal Register** on May 15, 2013 (78 FR 28630).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination of the TAA petition filed on behalf of workers at the subject firm was based on the Department's findings that, during the relevant period, neither the subject firm nor its customers increased imports of articles like or directly competitive with mattresses or box springs produced by the subject firm; the subject firm did not shift production of mattresses and/or box springs, or like or directly competitive articles, to a foreign country, and did not acquire such production from a foreign country; the subject firm is neither a Supplier nor Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a); and the subject firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration stated that the workers of the subject firm should be eligible to apply for TAA because workers at the subject firm were impacted by foreign competition of imported mattresses and box springs. The request also asserts that increased imports should be measured both absolutely and relative to domestic production, as required by applicable regulation. The request further states that the subject firm is a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

The request for reconsideration includes a reference to a blog that reported that imports of mattresses have increased since 2003, import data that shows that imports of bedding foundations (which are directly competitive with box springs) decreased in 2012 from 2011 levels, a list of bedding companies and sawmills that employed workers who are eligible to apply for TAA, and references on-line articles regarding Sealy Mattress.

During the review of the application, the Department carefully reviewed the USW's request for reconsideration (including the attachments), the existing record, and the articles referenced in the application (''Sealy opens first factory in China''; February 2011; *http://bedtimesmagazine.com* and ''Sealy Opens New Toronto Facility''; October 15, 2008; *http://furninfo.com*).

The request for reconsideration did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 7th day of June, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–14849 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,440]

Stone Age Interiors, Inc., D/B/A Colorado Springs Marble and Granite, Including On-Site Leased Workers From Express Employment Professionals, Colorado Springs, Colorado; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated May 16, 2013, a company official requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Stone Age Interiors, Inc., d/b/a Colorado Springs Marble and Granite, Colorado Springs, Colorado (subject firm). The negative determination was issued on April 15, 2013 and the Notice of Determination was published in the **Federal Register** on May 15, 2013 (78 FR 28628–28630). Workers at the subject firm were engaged in activities related to the production of finished stone fabrication. The worker group includes on-site leased workers from Express Employment Professionals.

The initial investigation resulted in a negative determination based on the Department's findings that Criterion (2)(A)(ii) has not been met because imports of articles like or directly competitive with finished stone fabrication produced by Stone Age did not increase during the relevant period.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that Stone Age did not shift production of finished stone fabrication, or like or directly competitive articles, to a foreign country, or acquire such production from a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that Stone Age is neither a Supplier nor Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act have not been satisfied because Stone Age has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration alleges that increased imports of finished product from China have adversely impacted the business and that the information provided by the subject firm was incomplete and/or misunderstood.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 7th day of June, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–14854 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,414]

TE Connectivity, CIS-Appliances Division, Including On-Site Leased Workers From Kelly Services, Jonestown, Pennsylvania; Notice of Negative Determination on Reconsideration

On September 28, 2012, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of TE Connectivity, CIS-Appliances Division, Jonestown, Pennsylvania (hereafter referred to as ''the subject firm''). The workers are engaged in activities related to the production of electronic components and the supply of administrative support services (in support of production). The worker group includes on-site leased workers from Kelly Services.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the Department's findings of no increased imports by the subject firm of articles like or directly competitive with the electronic components produced by the subject workers. Further, aggregate imports of articles like or directly competitive with electronic components decreased during the relevant period. The investigation also revealed that the subject firm did not shift the production of electronic components, or a like or directly competitive article, to a foreign country or acquire such production from a foreign country. In addition, the investigation revealed that the subject firm is not a Supplier or Downstream Producer for a firm (or subdivision) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2272(a), and that the group eligibility requirements under Section 222(e) of the Trade Act of 1974, as amended, have not been satisfied.

In the request for reconsideration, the worker supplied new information regarding a possible shift in the production of like or directly competitive articles to Mexico and/or China. Specifically, the workers alleged that they trained employees from facilities in Mexico and China and that dies were shifted to Mexico and China.

During the reconsideration investigation, the subject firm company official confirmed that the workers of the subject firm were engaged in activities related to the production of electronic components, and that some of the workers performed administrative support services in support of production.

The reconsideration investigation revealed that, although the subject firm shifted a portion of production to Mexico and China, the shift in production represented a negligible portion of overall production volume and, therefore, did not contribute importantly to worker separations or threat of separations.

The Department also obtained information regarding the allegation of additional production being shifted to a foreign country. Specifically, the subject firm addressed the petitioner allegations in regard to training workers from other countries. The subject firm confirmed that the training was part of an effort to increase the skill level of employees across TE Connectivity. The Department also confirmed that, during 2010 to present, the subject firm did not shift any additional production or services, like or directly competitive with the articles and services produced and performed by the workers of the subject firm to Mexico, China, or any other country, nor is a shift in production or services scheduled to occur.

The Department also reviewed the Trade Adjustment Assistance (TAA) certification of affiliated worker groups and confirmed that the subject firm does not produce any articles or perform any services like or directly competitive with those produced or supplied by worker groups eligible to apply for TAA.

The reconsideration investigation also revealed no increased imports by the subject firm of articles or services like or directly competitive with articles and services produced or performed by the workers of the subject firm. The subject firm also confirmed that they did not contract to have like or directly competitive articles or services produced or performed in a foreign country.

The subject firm confirmed that they do not supply components or services nor do they perform any finishing services for any of TAA certified locations; hence, the subject firm is not a Supplier, nor does it act as a Downstream Producer for, a firm (or subdivision, whichever is applicable) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a), and that the group eligibility requirements under Section 222(e) of the Act have not been satisfied.

Therefore, after careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. 2272, have not been met and, therefore, deny the petition for group eligibility of TE Connectivity, CIS-Appliances Division, Jonestown, Pennsylvania, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. 2273.

Signed in Washington, DC, on this 5th day of June, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–14852 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of May 27, 2013 through May 31, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,981	Trane—Custom Airesystems, Climate Solutions, Ingersoll Rand	Fort Smith, AR	September 18, 2011.
82,507	Clover Industries, Market Dimensions, Aerotek	Wausau, WI	February 25, 2012.
82,601	Kindel Furniture Co, Adecco Employment Services	Grand Rapids, MI	March 25, 2012.
82,688	Rough & Ready Lumber, LLC	Cave Junction, OR	April 23, 2012.
82,718	Schweitzer-Mauduit International, Inc., Paper Machine #21	Ancram, NY	May 1, 2012.
82,731	Pittsburgh Corning Corporation, PPG Industries, Inc., Corning Incorporated, Glass Block Division.	Port Allegany, PA	May 17, 2013.
82,736	Ames True Temper, Inc., Union City Plant, Griffon Corporation, Adecco	Union City, PA	May 6, 2012.
82,747	Textile Piece Dyeing Co., Inc., A Subsidiary of Dartmouth Textiles	Lincolnton, NC	May 15, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,744	TE Connectivity, AD&M Division, Aerotek, Volt, Exact Staff, Kelly	Carpinteria, CA	May 14, 2012.
82,753	Agilent Technologies, Inc., Dissolution Division, Volt	Cary, NC	May 20, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,655	CPI Corporation, Corporate Headquarters, All Team, Apex Systems, Inc., Professional Employment Group.	St. Louis, MO.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,712	Lightrite Co, On-site at Micro/Nano Fabrication Center	Tucson, AZ.	

I hereby certify that the aforementioned determinations were issued during the period of May 27, 2013 through May 31, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: June 4, 2013.

Michael W. Jaffe

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–14851 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 1, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 1, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 6th day of June 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX—11 TAA PETITIONS INSTITUTED BETWEEN 5/27/13 AND 5/31/13

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82764	KEMET (State/One-Stop)	Simpsonville, SC	05/28/13	05/24/13
82765	Pinnacle (Workers)	Richardson, TX	05/28/13	05/24/13
82766	Hartford Financial Services Group, Inc. (Company).	3 Locations in TX, CT, and FL	05/28/13	05/10/13
82767	Westmount Financial (US) LLLP (State/One-Stop).	Seattle, WA	05/29/13	05/24/13
82768	Teva Pharmaceuticals (Workers)	Sellersville, PA	05/29/13	05/28/13
82769	Prudential Financial—Global Business Technology Solutions (Workers).	Plymouth, MN	05/29/13	05/28/13
82770	Ecke Ranch, Inc. (Workers)	Connellsville, PA	05/29/13	05/22/13
82771	Unipower (State/One-Stop)	Brookfield, CT	05/30/13	05/29/13
82772	Haemonetics Corporation (Company)	Braintree, MA	05/30/13	05/21/13
82773	Lester Inc. (Workers)	Wurland, KY	05/31/13	05/30/13
82774	Campbell Soup Company (State/One-Stop)	Camden, NJ	05/31/13	05/31/13

[FR Doc. 2013–14850 Filed 6–20–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: June 17, 2013 (78 FR 36277).

TIME AND DATE: 10:00 a.m., Thursday, June 20, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE ADDED: 2. NCUA's Rules and Regulations, Loan Participations.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304

Mary Rupp,

Board Secretary.

[FR Doc. 2013–14985 Filed 6–19–13; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, *Public Law 104–13.* This is the second notice for public comment; the first was published in the **Federal Register** at 77 FR 74516 and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Comments: Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Title: Program Evaluation of the Scholarships in Science, Technology, Engineering, and Mathematics (S–STEM) Program

OMB Approval Number: 3145–NEW

Overview of this information collection:

The National Science Foundation (NSF) is supporting an evaluation of the Scholarships in Science, Technology, Engineering, and Mathematics (S–STEM) Program, which operates within NSF's Division of Undergraduate Education. The evaluation will include surveys of principal investigators, surveys of a sample of S–STEM scholarship recipients, and focus groups and interviews with project personnel and students during site visits to S–STEM awardee institutions. The S–STEM Program awards grants to a geographically diverse set of two- and four-year institutions of higher education (IHEs) that then provide scholarships for academically talented students, in science and engineering disciplines, who have demonstrated financial need. The institutions also provide resources and support services to assist students in becoming and/or remaining engaged in science and engineering through to the successful attainment of associate, baccalaureate, or graduate-level degrees. Funding for the S–STEM Program comes from H–1B VISAs, funding which was reauthorized in FY 2005 through Public Law 108–447. NSF is committed to providing stakeholders with information regarding the expenditures of taxpayer funds. The evaluation of the S–STEM Program will explore the strategies, practices, and characteristics of the implementation of exemplary S–STEM awardees; investigate S–STEM Program outcomes related to awarding scholarships to talented STEM students with demonstrated financial need; and investigate institutional-related outcomes of S–STEM grantees. If NSF cannot collect information from S–STEM participants, NSF will have no other means to consistently document the outcomes, strategies, and experiences related to the program.

Consult With Other Agencies & the Public

NSF has not consulted with other agencies. However, the contractor conducting the evaluation has gathered information from an external evaluation group of subject matter experts on the study design and data collection plan. A request for public comments will be solicited through announcement of data collection in the **Federal Register**.

Background

The evaluation will involve data from extant sources, web surveys and site visits. OMB approval is being sought for the new data that will be collected for the study. Primary data sources will include web surveys of S–STEM Program Principal Investigators (PIs) and S–STEM scholarship recipients and in-depth interviews or focus groups with a series of respondents during site visits to a subset of awardee institutions.

Respondents: Individuals (Principal Investigators, S–STEM scholarship recipients, other campus officials involved in the S–STEM program).

Number of Respondents: 8,907

Average Time per Response: 24 minutes

Burden on the Public: 3,563 total hours

Dated: June 18, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–14843 Filed 6–20–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences #66; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Mathematical and Physical Sciences (#66).

Dates/Time: July 18, 2013 1:00 p.m.–5:15 p.m.

Place: National Science Foundation (NSF), Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230.

To help facilitate your entry into the building, contact Caleb Autrey (*cautery@nsf.gov*). Your request should be received on or prior to July 15, 2013.

To attend virtually via WebEx video: the phone-in number is: 1–866–844–9416 (operator password: mpsac) The web address is: *https://mmancusa.webex.com/mmancusa/j.php?ED=211441467&UID=490505487&PW=NMWQzM2ZmYjQx&RT=MiMxMQ%3D%3D.*

Operated Assisted teleconference service is available for this meeting. Call 1–888–393–0286. (password: mpsac). You will be connected to the audio portion of the meeting.

Type of Meeting: Open, Virtual.

Contact Person: Dr. Kelsey Cook, Staff Associate and MPSAC Designated Federal Officer, Directorate for Mathematical and Physical Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone #: 703 292–7490, 703–292–8800—*kcook@nsf.gov.*

Minutes: Meeting minutes and other information may be obtained from the Staff Associate and MPSAC Designated Federal Officer at the above address or the Web site at *http://www.nsf.gov/mps/advisory.jsp.*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning research in mathematics and physical sciences.

Agenda

State of the Directorate for Mathematical and Physical Sciences (MPS): FY 13, 14, and 15
Report on the NSF Strategic Plan
Briefing on the NRC Magnet Science Report
Update from StatsNSF Subcommittee
Update from Synchrotron Science Subcommittee
Update from Food Systems Subcommittee
Update from Optics and Photonics Subcommittee
Briefing on the NRC Math 2025 Report
Report from the Career Task Force
ACCI Interface: Planning for Joint Meeting Nov. 7–8, 2013
New challenges/subcommittees

Dated: June 18, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–14839 Filed 6–20–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Making the Most of Big Data: Request for Information

AGENCY: The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD), National Science Foundation.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Wendy Wigen at 703–292–4873 or *wigen@nitrd.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

DATES: Deadline date for submission of summaries is September 2, 2013.

SUMMARY: Federal Request for Information (RFI) on Big Data high-impact collaborations and areas for expanded collaboration between the public and private sectors.

SUPPLEMENTARY INFORMATION:

Overview: Aiming to make the most of the explosion of Big Data and the tools needed to analyze it, the Obama Administration announced a ''National Big Data Research and Development Initiative'' on March 29, 2012. To launch the initiative, six Federal departments and agencies announced more than $200 million in new commitments that, together, promise to greatly improve and develop the tools, techniques, and human capital needed to move from data to knowledge to action. The Administration is also working to ''liberate'' government data and voluntarily-contributed corporate data to fuel entrepreneurship, create jobs, and improve the lives of Americans in tangible ways. For additional information about the launch of the Big Data Initiative see the OSTP *Fact Sheet* and *Press Release.*

As we enter the second year of the Big Data Initiative, the Administration is encouraging multiple stakeholders including federal agencies, private industry, academia, state and local government, non-profits, and foundations, to develop and participate in Big Data innovation projects across the country. Later this year, the Office of Science and Technology Policy (OSTP), NSF, and other agencies in the *Networking and Information Technology R&D (NITRD) program* plan to convene an event that highlights high-impact collaborations and identifies areas for expanded collaboration between the public and private sectors. The Administration is particularly interested in projects and initiatives that:

- Advance technologies that support Big Data and data analytics;
- Educate and expand the Big Data workforce;
- Develop, demonstrate and evaluate applications of Big Data that improve key outcomes in economic growth, job creation, education, health, energy, sustainability, public safety, advanced manufacturing, science and engineering, and global development;
- Demonstrate the role that prizes and challenges can play in deriving new insights from Big Data; and
- Foster regional innovation.

Description: Please submit a two-page summary of projects to *bigdataprojects@nitrd.gov*. The summary should identify:

1. The goal of the project, with metrics for evaluating the success or failure of the project;
2. The multiple stakeholders that will participate in the project and their respective roles and responsibilities;
3. Initial financial and in-kind resources that the stakeholders are prepared to commit to this project; and
4. A principal point of contact for the partnership.

The submission should also indicate whether NITRD can post the project description to a public Web site. Unless otherwise noted, submissions with sensitive material (e.g., trade secrets, or privileged or confidential commercial or financial information) will be protected from disclosure.

This announcement is posted solely for information and planning purposes; it does not constitute a formal solicitation for grants, contracts, or cooperative agreements.

Submitted by the National Science Foundation for the National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD) on June 17, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–14746 Filed 6–20–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0284; Docket No. 50–247; License No. DPR–26]

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point Unit 2, LLC, Issuance of Director's Decision

Notice is hereby given that the Deputy Director, Reactor Safety Programs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC) has issued a Director's Decision on a petition filed by the Natural Resources Defense Council, Inc., (hereafter referred to as ''the petitioner''). The petition, dated April 16, 2012 (available as Agencywide Documents Access and Management System (ADAMS) Accession No. ML12108A052), concerns the operation of Indian Point Nuclear Generating Unit No. 2 (Indian Point 2), owned by Entergy Nuclear Indian Point 2, LLC, and operated by Entergy Nuclear Operations, Inc.

The petitioner requested that the NRC order the licensee for Indian Point 2 to remove the passive autocatalytic recombiners (PARs) from the containment building and replace them with electrically powered thermal hydrogen recombiners because the PAR system could have unintended ignitions in the event of a severe reactor accident, which in turn could cause a hydrogen detonation. The petitioner stated that experimental data demonstrates that Indian Point 2's two PAR units could have at least one unintended ignition on their catalytic surfaces following a severe reactor accident.

As the basis for the request, the petitioner stated, in part, that:

- The PAR systems are simple devices consisting of catalyst surfaces where spontaneous catalytic reactions occur in the presence of hydrogen and oxygen to form water vapor. PARs are passive systems and do not need external power supplies or operator

action to function. As a consequence, control room operators cannot deactivate them or remove them from service.

- The PARs at Indian Point 2 are capable of controlling hydrogen generated from the NRC's design-basis accident as described in the Indian Point 2 updated final safety analysis report. The focus of the petition regards the behavior of PARs following a severe reactor accident.
- Following a severe reactor accident, hydrogen generation rates could overwhelm the PARs at Indian Point 2. As a result, the containment atmosphere could have elevated concentrations of hydrogen gas approaching eight to 10 percent or greater.
- The petition cites data from tests, including work sponsored by the NRC at the Sandia National Laboratory's Surtsey test facility, where PARs were observed to have unintended ignitions in environments containing elevated levels of hydrogen gas (i.e., eight to 10 percent). According to the petitioner, ignitions could lead to detonations.
- The NRC has not published any documentation indicating that the issue of PAR ignitions has been studied and resolved.
- Removal of the PARs at Indian Point 2 will lead to a safer post-accident condition because a potential source of ignition would be removed. Furthermore, if the PARs are replaced by electrically powered hydrogen thermal recombiners, control-room operators would have the option of deactivating them because electrically powered hydrogen thermal recombiners can also have unintended ignitions.

The NRC sent a copy of the proposed Director's Decision to the petitioner and the licensee for comment on March 29, 2013. The Petitioner and the licensee were asked to provide comments within 30 days on any part of the proposed Director's Decision that was considered to be erroneous or any issues in the petition that were not addressed. Comments were not received from either the Petitioner or the licensee.

The Deputy Director of the Office of Nuclear Reactor Regulation denied the petitioner's request to order the removal of the two PAR units from the Indian Point 2 containment building and replace them with electrically powered thermal hydrogen recombiners. The NRC staff has reviewed the petition and does not agree that the presence of PARs represents a sufficient risk to warrant their removal by order. Following a severe reactor accident, multiple ignition sources, besides PARs, would be present in containment to initiate combustion at lower flammability limits, which would be expected to keep hydrogen concentrations below detonable levels. Furthermore, the NRC staff believes that the presence of PARs could prove beneficial in the event of an extended station blackout.

The Director's Decision (DD–13–01) under part 2.206 of Title 10 of the *Code of Federal Regulations,* ''Requests for Action under This Subpart,'' explains the reasons for this decision. The complete text is available in ADAMS under Accession No. ML13128A436 for inspection at the Commission's Public Document Room located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and online in the NRC library at *http://www.nrc.gov/reading-rm.html.*

The NRC will file a copy of the Director's Decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As a provision of this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the Decision unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 7th day of June 2013.

For the Nuclear Regulatory Commission.

Jennifer L. Uhle,

Deputy Director, Reactor Safety Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–14875 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285; NRC–2013–0130]

Omaha Public Power District, Fort Calhoun Station, Unit 1; Exemption

1.0 Background

Omaha Public Power District (OPPD, the licensee) is the holder of Facility Operating License, which authorizes operation of Fort Calhoun Station (FCS), Unit 1. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect.

The facility consists of one pressurized-water reactor located in Washington County, Nebraska.

2.0 Request/Action

Section 26.205(d)(3) of Title 10 of the *Code of Federal Regulations* (10 CFR), requires licensees to ensure that individuals who perform duties identified in 10 CFR 26.4(a)(1) through (a)(5) to comply with the requirements for maximum average work hours in 10 CFR 26.205(d)(7). However, 10 CFR 26.205(d)(4) provides that during the first 60 days of a unit outage, licensees need not meet the requirements of 10 CFR 26.205(d)(7) for individuals specified in 10 CFR 26.4(a)(1) through (a)(4), while those individuals are working on outage activities. The less restrictive requirements of 10 CFR 26.205(d)(4) and (d)(5) are permitted to be applied during the first 60 days of a unit outage following a period of normal plant operation in which the workload and overtime levels are controlled by 10 CFR 26.205(d)(3). The regulations in 10 CFR 26.205(d)(4) also require licensees to ensure that the individuals specified in 10 CFR 26.4(a)(1) through (a)(3) have at least 3 days off in each successive (i.e., non-rolling) 15-day period and that the individuals specified in 10 CFR 26.4(a)(4) have at least 1 day off in any 7-day period.

Regulatory Guide (RG) 5.73, ''Fatigue Management for Nuclear Power Plant Personnel,'' March 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML083450028), endorses Nuclear Energy Institute (NEI) 06–11, Revision 1, ''Managing Personnel Fatigue at Nuclear Power Reactor Sites,'' October 2008 (ADAMS Accession No. ML083110161), with clarifications, additions and exceptions. Position 10 of RG 5.73 ''C. Regulatory Position'' provides an acceptable alternate method to the method stated in the NEI 06–11, Section 8.3, for transitioning individuals who are working an outage at one site onto an outage at another site.

By letter dated October 10, 2012 (ADAMS Accession No. ML12284A344), the licensee requested a one-time exemption in accordance with 10 CFR 26.9 from the specific requirements of 10 CFR 26.205(d)(7). Currently, 10 CFR 26.205(d)(4) and (d)(5) permit the use of less restrictive working hour limitations during the first 60 days of a unit outage, in lieu of the requirements of 10 CFR 26.205(d)(7). The proposed exemption would allow the use of the less restrictive working hour limitations described in 10 CFR 26.205(d)(4) and (d)(5) to support activities required for plant startup from the current extended outage, for a period not to exceed 60 days. The exemption would apply to the operations, chemistry, radiation protection, security, fire brigade, and maintenance personnel as defined in 10 CFR 26.4(a)(1) through (a)(5). The licensee is requesting this one-time exemption to facilitate the licensee in its efforts to complete work activities

supporting the restart of FCS from the current extended refueling outage, which began in April 2011.

3.0 Discussion

Pursuant to 10 CFR 26.9, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 26 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

FCS, Unit 1 commenced a refueling outage on April 9, 2011, and declared an Unusual Event on June 6, 2011. The first 60 days of the outage during which the less restrictive work-hour limitations of 10 CFR 26.205(d)(4) and (d)(5) were in effect, ended in June 2011. However, due to the declaration of the flooding emergency, work-hour limitations were suspended until the Unusual Event was exited on August 29, 2011. The proposed exemption would allow the use of the less restrictive working-hour limitations described in 10 CFR 26.205(d)(4) and (d)(5) to support activities required for plant startup from the current extended outage, for a period not to exceed 60 days. The proposed exemption would apply to the personnel performing the duties defined in 10 CFR 26.4(a)(1) through (a)(5).

In August 2012, FCS transitioned from compliance with 10 CFR 26.205(d)(3) (minimum days off) to compliance with the maximum average work hour requirements of 10 CFR 26.205(d)(7). By letter dated April 11, 2013 (ADAMS Accession No. ML13102A047), the licensee provided Standing Order (SO) SO–G–52, which set forth requirements and expectations for controlling the work hours of FCS plant staff in accordance with 10 CFR Part 26, Subpart I, ''Managing Fatigue.'' The requirements of this standing order are intended to provide reasonable assurance that worker fatigue will be avoided, that individuals will be able to safely perform their duties, and that personnel are not assigned to duties while in a fatigued condition that could significantly reduce their mental alertness or their decision-making ability. Work group timekeepers for on-line and plant outage periods are to maintain schedules and time reports. Duration of scheduled work and break periods, start times, rotating schedules, training, and vacation are considered when establishing work schedules.

Notwithstanding the exemption for this specific requirement, the licensee will continue to be in compliance with all other requirements as described in 10 CFR part 26.

Authorized by Law

This exemption would allow the licensee to use the less restrictive working-hour limitations provided in 10 CFR 26.205(d)(4) and (d)(5) for completion of the outage activities, for a period of 60 days, during the current extended outage. The approval of this exemption, as noted above, would allow the licensee the use of the less restrictive working-hour limitations described in 10 CFR 26.205(d)(4) and (d)(5) for an additional period not to exceed 60 days or until the reactor unit is connected to the electrical grid whichever occurs first, to support activities required for plant startup from the current extended outage.

As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

Will Not Endanger Life or Property

The underlying purpose of 10 CFR 26.205(d)(4) is to provide licensees flexibility in scheduling required days off when accommodating the more intense work schedules associated with a unit outage, while assuring that cumulative fatigue does not compromise the abilities of individuals to safely and competently perform their duties

Since August 2012, FCS personnel have averaged considerably less than 54 hours per week. This provides assurance that covered workers are not already fatigued from working an outage schedule. This exemption would allow the licensee to implement the less restrictive work-hour requirements of 10 CFR 26.205(d)(4) to allow flexibility in scheduling required days off while accommodating the more intensive work schedules that accompany completion of FCS extended outage. Therefore, cumulative fatigue does not compromise the abilities of affected individuals to safely and competently perform their duties.

By letter dated March 16, 2013 (ADAMS Accession No. ML13101A004), the licensee stated that no waivers have been issued under 10 CFR 26.207 by FCS operations, maintenance, chemistry, security, or radiation protection departments since the end of January 2012. The licensee specifically stated that since August 2012, FCS personnel have averaged considerably less than 54 hours per week.

Furthermore, by letter dated May 24, 2013 (ADAMS Accession No. ML13148A057), the licensee committed that ''OPPD will ensure that no individual covered by 10 CFR 26.4(a)(1) through (a)(5) works more than 50 hours per week averaged over the 2-week period prior to the effective date of the exemption.''

No new accident precursors are created by invoking the less restrictive work-hour limitations on a date commensurate with the start of those activities supporting the completion of the extended outage at FCS, provided that the licensee has effectively managed fatigue for the affected individuals prior to this date. Thus, no new accident precursors are created by invoking the less restrictive work-hour limitations on a date commensurate with the start of activities supporting the restart of FCS. The licensee will effectively manage fatigue for the covered individuals prior to this date. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, granting this exemption will not endanger life or property.

Consistent With Common Defense and Security

The proposed exemption would allow for the use of the less restrictive work-hour requirements of 10 CFR 26.205(d)(4) in lieu of 10 CFR 26.205(d)(7). This exemption would affect operations, radiation protection, chemistry, fire brigade, security, and maintenance personnel supporting the completion of the outage activities for FCS, which has been in an extended outage since April 9, 2011.

The licensee will maintain the qualified personnel in the operations, radiation protection, chemistry, fire brigade, security, and maintenance departments on a schedule that complies with 10 CFR 26.205(d)(7) requirements. The exemption would continue to serve the underlying purpose of 10 CFR Part 26, Subpart I, in that assurance would be provided such that cumulative fatigue of individuals to safely and competently perform their duties will not be compromised. Therefore, the common defense and security is not impacted by this exemption.

Consistent With the Public Interest

The proposed exemption would allow the licensee to implement the less restrictive work-hour requirements of 10 CFR 26.205(d)(4) in lieu of 10 CFR 26.205(d)(7) to allow flexibility in scheduling required days off while accommodating the more intensive work schedules that accompany a unit

outage. By letter dated March 16, 2013, the licensee explained the events supporting the less restrictive limitations requiring flexibility in scheduling. During the completion of the extended outage, the workload for the affected personnel will undergo a temporary but significant increase due to the various activities surrounding the significant operational events involving a fire in safety related electrical switchgear, flooding, and transitioning to Inspection Manual Chapter (IMC) 0350, ''Oversight of Reactor Facilities in a Shutdown Condition due to Significant Performance and/or Operational Concerns,'' from being in an extended shutdown with significant performance problems. Because of these events, there has been an increase in workload prior to restart. OPPD also noted that a number of new issues have been discovered that must be tested and restored. During the extended shutdown, extensive work has been initiated to address deficiencies noted in containment building electrical penetrations, containment structural supports, and the impact of flooding hazards related to systems, structures, and components. These activities are in addition to the normal FCS startup activities involving operation and surveillance testing of primary systems and components. Ensuring a sufficient number of qualified personnel are available to support these activities is in the interest of overall public health and safety. Therefore, this exemption is consistent with the public interest.

4.0 Environmental Consideration

The exemption would authorize a one-time exemption from the requirements of 10 CFR 26.205(d)(7) to allow the use of the less restrictive hour limitations described in 10 CFR 26.205(d)(4) and (d)(5). Using the standard set forth in 10 CFR 50.92 for amendments to operating licenses, the NRC staff determined that the subject exemption sought involves employment suitability requirements. The NRC has determined that this exemption involves no significant hazards considerations:

(1) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. This does not result in any changes to the design basis requirements for the structures, systems, and components (SSCs) at FCS that function to limit the release of non-radiological effluents during and following postulated accidents. Therefore, issuance of this exemption does not increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. The proposed exemption does not make any changes to the facility or operating procedures and would not create any new accident initiators. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption is administrative in nature and is limited to changing the timeframe when less restrictive hours can be worked. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in the margin of safety.

Based on the above, the NRC concludes that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92, and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves scheduling requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment is required to be prepared in connection with the issuance of the exemption.

5.0 Conclusion

Accordingly, the Commission has determined that pursuant to 10 CFR 26.9, ''Specific exemptions,'' an exemption from 10 CFR 26.205(d)(7) is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Therefore, the Commission hereby grants OPPD a one-time, 60-day exemption from 10 CFR 26.205(d)(7) to allow the use of the work hour limitations described in 10 CFR 26.205(d)(4) and (d)(5).

This exemption is effective upon issuance. The licensee may implement the work hour provisions of 10 CFR 26.205(d)(4) for 60 days or until the completion of the current extended outage, whichever is shorter.

Dated at Rockville, Maryland, this 11th day of June 2013.

For the Nuclear Regulatory Commission,

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–14910 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–361; NRC–2013–0070]

Application and Amendment to Facility Operating License Involving Proposed No Significant Hazards Consideration Determination; San Onofre Nuclear Generating Station, Unit 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal.

ADDRESSES: Please refer to Docket ID NRC–2013–0070 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0070. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at

the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Brian Benney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–2767; email: *Brian.Benney@nrc.gov*.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Southern California Edison (the licensee) to withdraw its April 5, 2013, application (ADAMS Accession No. ML13098A043), for proposed amendment to Facility Operating License No. NPF–10 for the San Onofre Nuclear Generating Station (SONGS), Unit 2, located in San Diego County, California.

The proposed amendment would have revised the facility Technical Specification 5.5.2.11.b.1 to require that compliance with the steam generator structural integrity performance criterion (SIPC) be demonstrated up to 70% Rated Thermal Power (2406.6 megawatts thermal), and added a footnote to the Facility Operating License Condition 2.C(1) ''Maximum Power Level,'' to restrict operation of SONGS Unit 2 to no more than 70% Rated Thermal Power for the SONGS Unit 2, Cycle 17.

The proposed amendment would have made a temporary change to the steam generator management program and the license condition for maximum power. For the duration of Unit 2, Cycle 17, the proposed amendment would have changed the terms ''full range of normal operating conditions'' and ''normal steady state full power operation'' and restricted operation to 70 percent of the maximum authorized power level. ''Full range of normal operating conditions'' and ''normal steady state full power operation'' would have been based upon the steam generators being operated under conditions associated with reactor core power levels up to 70 percent Rated Thermal Power (2406.6 megawatts thermal).

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 16, 2013 (78 FR 22576). Subsequently, by letter dated June 12, 2013 (ADAMS Accession No. ML131640201), the licensee notified the NRC that SCE has permanently ceased power operation of SONGS Units 2 and 3, effective June 7, 2013. In addition, by letter dated June 13, 2013 (ADAMS Accession No. ML13165A217), the licensee notified the NRC that in light of the decision to permanently cease power operation of SONGS Units 2 and 3, the amendment request is withdrawn.

For further details with respect to this action, see the application for amendment dated April 5, 2013, as supplemented by letters dated April 9 and May 16, 2013 (ADAMS Accession Nos. ML13100A021 and ML13137A129, respectively), and the licensee's letters dated June 12 and 13, 2013, which notified the NRC of permanent cessation of power operation at SONGS Units 2 and 3, and withdrew the application for license amendment.

Dated at Rockville, Maryland, this 14th day of June, 2013.

For the Nuclear Regulatory Commission.

Douglas A. Broaddus,

Chief, SONGS Special Projects Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–14912 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0105; Docket Nos. 50–325, 50–324, 50–400, 50–261]

Carolina Power & Light Company; Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on May 28, 2013, 78 FR 31982, that inadvertently omitted the reference to Brunswick Steam Electric Plant, Unit 2, in the **Federal Register** Notice for the Carolina Power & Light Company license amendment request dated April 20, 2013. This action is necessary to include Brunswick Steam Electric Plant, Unit 2, in the **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Araceli T. Billoch Colón, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–3302, email: *Araceli.Billoch@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 31982, in the first column, lines two through four, are corrected to read from ''Docket No. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina'' to ''Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina.''

Dated in Rockville, Maryland, this 13th day of June 2013.

For the Nuclear Regulatory Commission.

Araceli T. Billoch Colón,

Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–14879 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Advanced Boiling Water Reactor; Notice of Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactor (ABWR) will hold a meeting on July 9, 2013, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, July 9, 2013—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review and discuss selected Chapters of the Safety Evaluation Report (SER) associated with the Combined License Application (COLA) for the South Texas Project (STP) Units 3 and 4 referencing the ABWR design. The Subcommittee will also review the proposed resolution of action items associated with the STP COLA. The Subcommittee will hear presentations by and hold discussions with the applicant, Nuclear Innovation North America (NINA), the NRC staff, and other interested persons regarding these matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–3718 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy

cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North Building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 14, 2013.

Kathy Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14935 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 9, 2013, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy. The agenda for the subject meeting shall be as follows:

Tuesday, July 9, 2013—12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Antonio Dias (Telephone 301–415–6805 or Email: *Antonio.Dias@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: June 14, 2013.

Kathy Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14936 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA; Notice of Meeting

The ACRS Subcommittee on Reliability & PRA will hold a meeting on July 22, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, July 22, 2013—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review and discuss the staff's progress of the Level 3 Probabilistic Risk Assessment (PRA) effort. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO.

Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 14, 2013.

Kathy Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14945 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Power Uprates; Notice of Meeting

The ACRS Subcommittee on Power Uprates will hold a meeting on July 25–26, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Thursday, July 25, 2013 and Friday, July 26, 2013—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review and discuss the Monticello extended power uprate application and the associated Safety Evaluation Report (SER). The Subcommittee will hear presentations by and hold discussions with the licensee, Northern States Power Company of Minnesota, the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Peter Wen (Telephone 301–415–2832 or Email: *Peter.Wen@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 12, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14921 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA; Notice of Meeting

The ACRS Subcommittee on Reliability & PRA will hold a meeting on July 22, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, July 22, 2013—1:00 p.m. Until 5:00 p.m.

The Subcommittee will be briefed on the proposed response to SRM on SECY–12–0081, ''Risk-Informed Regulatory Framework for New Reactors.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 14, 2013.

Kathy Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14933 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Plant Operations and Fire Protection; Notice of Meeting

The ACRS Subcommittee on Plant Operations and Fire Protection will hold a meeting on July 24, 2013, at the U.S. NRC Region I Office, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA 19406–2713.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, July 24, 2013—8:15 a.m. Until 12:00 p.m.

The Subcommittee will meet with Region I staff to discuss items of mutual interest. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: June 12, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–14928 Filed 6–20–13; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Missing Participants in Individual Account Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Request for information.

SUMMARY: PBGC is soliciting information from the public to assist it in making decisions about implementing a new program to deal with benefits of missing participants in terminating individual account plans. PBGC is interested in stakeholders' views on topics such as the extent of the demand for such a program, the demand for a database of missing participants, the availability of private-sector missing participant services, potential program costs and fees, electronic filing, and the contours of diligent search requirements.

DATES: Comments must be received on or before August 20, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov*.
- *Fax:* 202–326–4220.
- *Mail or Hand Delivery:* Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *www.pbgc.gov*. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 12300, 1200 K Street NW., Washington, DC 20005–4026, *klion.catherine@pbgc.gov* or 202–326–4024. (For TTY–TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Before the Pension Protection Act of 2006, section 4050 of the Employee Retirement Income Security Act (ERISA) required the Pension Benefit Guaranty Corporation (PBGC) to operate (and pension plans to use) a missing participants program limited to single-employer plans covered by title IV of ERISA. The Pension Protection Act of 2006 amended section 4050 to provide for a similar mandatory program for covered multiemployer plans and an optional program for non-covered plans, both individual account plans (defined contribution plans) [1] and defined benefit plans not covered by title IV. It also authorized PBGC to require non-covered plans to submit information to PBGC about missing participants' benefits.

Before making decisions about implementing a missing participants program for terminating individual account plans (which represent the vast majority of non-covered plans), PBGC requires an understanding of the demand for such a program and how that demand might be affected by fees, minimum benefit requirements, and information requirements, measured against private providers of similar services.

PBGC has made some efforts to conduct research in this area by contacting financial institutions, plan recordkeeping service providers,

[1] ERISA section 3(34) defines both ''individual account plan'' and ''defined contribution plan'' as ''a pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.''

companies that provide benefit processing services, and sponsors of terminated individual account plans, but found it difficult to draw useful conclusions from these contacts. In addition, PBGC wants input reflecting participant interests. Accordingly PBGC is issuing this request for information.[2]

Request for Information

PBGC is soliciting information from the public on issues related to missing participants in terminating individual account plans. PBGC seeks comments on any and all relevant issues, including the following:

- For pension consultants: Among individual account plans that you are familiar with, what proportion has participants they cannot find? Among such plans, what is the average number of participants the plan cannot find? In your experience, what is the average account balance, and what is the range of account balances, for participants that cannot be found?
- What if any services for missing participants in individual account plans are unavailable in the competitive private marketplace (for example, handling very small benefits or QJSA benefits)? Why are they unavailable (for example, because it is not cost-effective to provide them)?
- If PBGC provided services for missing participants' accounts in terminating individual account plans that were comparable to the services provided by the private sector and charged comparable fees, would you be likely to choose the PBGC program or the private sector program and why? Would it make a difference if PBGC provided a narrower range of services than typical private-sector providers?
- How would individual account plans' choice to use a PBGC missing participants program for such plans—rather than a private-sector service—be affected by (1) The level of fees PBGC might charge, (2) the minimum benefit size PBGC might accept, (3) optional or mandatory electronic filing, and (4) other possible program features?
- What impact would a PBGC missing participants program for individual account plans have on private-sector benefit processing firms?
- How would you view the value (such as convenience and reliability) of a single database of missing participants' benefits in terminated individual account plans, maintained by PBGC, compared to the burden on plans to provide the data and the burden on PBGC to maintain the database? How would the comparison change if plan reporting of data were voluntary rather than mandatory, making the database less comprehensive? What information should be in the database?
- ERISA section 4050(b)(2) defines a missing participant as ''a participant or beneficiary under a terminating plan whom the plan administrator cannot locate after a diligent search.'' What ''diligent search'' requirements should apply for individual account plans? Should PBGC offer diligent search services for a fee or post on its Web site the names of private sector companies that provide diligent search services?
- What special concerns do small plans or their sponsors or participants have regarding the treatment of missing participants in individual account plans?

In addressing these issues, to the extent possible, commenters are requested to provide quantitative as well as qualitative support or analysis where applicable.

Issued in Washington, DC, this 17th day of June 2013.

Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2013–14834 Filed 6–20–13; 8:45 am]

BILLING CODE 7709–01–P

[2] PBGC is developing amendments to its current missing participants regulation (29 CFR part 4050) to implement the mandatory multiemployer program and to improve the existing single-employer program, regardless of what decisions are made about the optional programs for non-covered plans.

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on June 27, 2013, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting is as follows:

Portion open to the public:

(1) Disability Annuities

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: June 18, 2013.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2013–14973 Filed 6–19–13; 11:15 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 206(4)–7, OMB Control No. 3235–0585, SEC File No. 270–523.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is ''Investment Advisers Act rule 206(4)–7 (17 CFR 275.206(4)–7), Compliance procedures and practices.'' Rule 206(4)–7 requires each investment adviser registered with the Commission to (i) Adopt and implement internal compliance policies and procedures, (ii) review those policies and procedures annually, (iii) designate a chief compliance officer, and (iv) maintain certain compliance records. Rule 206(4)–7 is designed to protect investors by fostering better compliance with the securities laws. The collection of information under rule 206(4)–7 is necessary to assure that investment advisers maintain comprehensive internal programs that promote the advisers' compliance with the Investment Advisers Act of 1940. The information collection in the rule also assists the Commission's examination staff in assessing the adequacy advisers' compliance programs. This collection of information is found at 17 CFR 275.206(4)–7 and is mandatory.

The information documented pursuant to rule 206(4)–7 is reviewed by the Commission's examination staff; it will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The respondents to this information collection are investment advisers registered with the Commission. Our latest data indicate that there were 10,773 advisers registered with the Commission as of February 1, 2013. The Commission has estimated that

compliance with rule 206(4)–7 imposes an annual burden of approximately 87 hours per respondent. Based on this figure, the Commission estimates a total annual burden of 937,251 hours for this collection of information.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov*. Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14802 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 6a–3, SEC File No. 270–0015, OMB Control No. 3235–0021.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Act'') sets out a framework for the registration and regulation of national securities exchanges. Under Rule 6a–3 (17 CFR 240.6a–3), one of the rules that implements Section 6, a national securities exchange (or an exchange exempted from registration based on limited trading volume) must provide certain supplemental information to the Commission, including any material (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Rule 6a–3 also requires the exchanges to file monthly reports that set forth the volume and aggregate dollar amount of securities sold on the exchange each month. The information required to be filed with the Commission pursuant to Rule 6a–3 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The Commission estimates that each respondent makes approximately 25 such filings on an annual basis at an average cost of approximately $52.50 per response. Currently, 19 respondents (17 national securities exchanges and two exempt exchanges) are subject to the collection of information requirements of Rule 6a–3. The Commission estimates that the total burden for all respondents is 237.5 hours (25 filings/respondent per year × 0.5 hours/response × 19 respondents) and $24,937.50 ($52.50/response × 25 responses/respondent per year × 19 respondents) per year.

Compliance with Rule 6a–3 is mandatory for registered and exempt exchanges. Information received in response to Rule 6a–3 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 (17 CFR 240.17a–1) under the Act, a national securities exchange is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14798 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–30, OMB Control No. 3235–0290]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–1(g).

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17f–1(g) (17 CFR 240.17f–1(g)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Paragraph (g) of Rule 17f–1 requires that all reporting institutions (i.e., every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank insured by the FDIC) maintain and preserve a number of documents related to their participation in the Lost and Stolen Securities Program (''Program'') under Rule 17f–1. The following documents must be kept in an easily accessible place for three years, according to paragraph (g): (1) copies of all reports of theft or loss (Form X–17F–1A) filed with the Commission's designee: (2) all agreements between reporting institutions regarding registration in the Program or other aspects of Rule 17f–1; and (3) all confirmations or other information received from the Commission or its designee as a result of inquiry.

Reporting institutions utilize these records and reports (a) to report missing, lost, stolen or counterfeit securities to the database, (b) to confirm inquiry of the database, and (c) to demonstrate compliance with Rule 17f–1. The Commission and the reporting

institutions' examining authorities utilize these records to monitor the incidence of thefts and losses incurred by reporting institutions and to determine compliance with Rule 17f–1. If such records were not retained by reporting institutions, compliance with Rule 17f–1 could not be monitored effectively.

The Commission estimates that there are approximately 24,969 reporting institutions (respondents) and, on average, each respondent would need to retain 33 records annually, with each retention requiring approximately 1 minute (a total of 33 minutes or 0.55 hours per respondent per year). Thus, the total estimated annual time burden for all respondents is 13,733 hours (24,969 × 0.55 hours = 13,733). Assuming an average hourly cost for clerical work of $50.00, the average total yearly record retention cost of compliance for each respondent would be $27.50 ($50 × 0.55 hours). Based on these estimates, the total annual compliance cost for the estimated 24,969 reporting institutions would be approximately $686,647 (24,969 × $27.50).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Pease direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 18, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14833 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 0–4; OMB Control No. 3235–0633, SEC File No. 270–569.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for approval of the collection of information discussed below.

Rule 0–4 (17 CFR 275.0–4) under the Investment Advisers Act of 1940 (''Act'' or ''Advisers Act'') (15 U.S.C. 80b–1 et seq.) entitled ''General Requirements of Papers and Applications,'' prescribes general instructions for filing an application seeking exemptive relief with the Commission. Rule 0–4 currently requires that every application for an order for which a form is not specifically prescribed and which is executed by a corporation, partnership or other company and filed with the Commission contain a statement of the applicable provisions of the articles of incorporation, bylaws or similar documents, relating to the right of the person signing and filing such application to take such action on behalf of the applicant, and a statement that all such requirements have been complied with and that the person signing and filing the application is fully authorized to do so. If such authorization is dependent on resolutions of stockholders, directors, or other bodies, such resolutions must be attached as an exhibit to or quoted in the application. Any amendment to the application must contain a similar statement as to the applicability of the original statement of authorization. When any application or amendment is signed by an agent or attorney, rule 0–4 requires that the power of attorney evidencing his authority to sign shall state the basis for the agent's authority and shall be filed with the Commission. Every application subject to rule 0–4 must be verified by the person executing the application by providing a notarized signature in substantially the form specified in the rule. Each application subject to rule 0–4 must state the reasons why the applicant is deemed to be entitled to the action requested with a reference to the provisions of the Act and rules thereunder, the name and address of each applicant, and the name and address of any person to whom any questions regarding the application should be directed. Rule 0–4 requires that a proposed notice of the proceeding initiated by the filing of the application accompany each application as an exhibit and, if necessary, be modified to reflect any amendment to the application.

The requirements of rule 0–4 are designed to provide Commission staff with the necessary information to assess whether granting the orders of exemption are necessary and appropriate in the public interest and consistent with the protection of investors and the intended purposes of the Act.

Applicants for orders under the Advisers Act can include registered investment advisers, affiliated persons of registered investment advisers, and entities seeking to avoid investment adviser status, among others. Commission staff estimates that it receives up to 9 applications per year submitted under rule 0–4 of the Act seeking relief from various provisions of the Advisers Act and, in addition, up to 7 applications per year submitted under Advisers Act rule 206(4)–5, which addresses certain ''pay to play'' practices and also provides the Commission the authority to grant applications seeking relief from certain of the rule's restrictions. Although each application typically is submitted on behalf of multiple applicants, the applicants in the vast majority of cases are related entities and are treated as a single respondent for purposes of this analysis. Most of the work of preparing an application is performed by outside counsel and, therefore, imposes no hourly burden on respondents. The cost outside counsel charges applicants depends on the complexity of the issues covered by the application and the time required. Based on conversations with applicants and attorneys, and recent analyses by the Commission,[1] the cost

[1] *See Family Offices,* Investment Advisers Act Release No. 3220 (June 22, 2011), at section IV.A (''We estimate that a typical family office will incur legal fees of $200,000 on average to engage in the exemptive order application process, including preparation and revision of an application and consultations with Commission staff.'') Although the Commission may receive fewer exemptive applications from family offices in light of rule 202(a)(11)(G)–1, which defines family offices that are now excluded from regulation under the Advisers Act, the costs to prepare family office applications may be representative of the costs required to prepare other more complex and novel applications. *See also Political Contributions by Certain Investment Advisers,* Investment Advisers Act Release No. 3043 (July 1, 2010), at section V.D.

Continued

for applications ranges from approximately $12,800 for preparing a well-precedented, routine (or otherwise less involved) application to approximately $200,000 to prepare a complex or novel application. We estimate that the Commission receives 2 of the most time-consuming applications annually, 4 applications of medium difficulty, and 10 of the least difficult applications subject to rule 0–4.[2] This distribution gives a total estimated annual cost burden to applicants of filing all applications of $702,000 [(2x$200,000) + (4x$43,500) + (10x$12,800)]. The estimate of annual cost burden is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The requirements of this collection of information are required to obtain or retain benefits. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14797 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

(estimating that applications filed under Advisers Act rule 206(4)–5 ''will cost approximately $12,800'').

[2] The estimated 10 least difficult applications include the estimated 7 applications per year submitted under Advisers Act rule 206(4)–5. The Commission previously estimated that these applications will cost approximately $12,800 each. *Id.*

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 204–3, OMB Control No. 3235–0047, SEC File No. 270–42.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is ''Rule 204–3 (17 CFR 275.204–3) under the Investment Advisers Act of 1940.'' (15 U.S.C. 80b). Rule 204–3, the ''brochure rule,'' requires advisers to deliver their brochures and brochure supplements at the start of an advisory relationship and to deliver annually thereafter the full updated brochure or a summary of material changes to their brochure. The rule also requires that advisers deliver an amended brochure or brochure supplement (or just a statement describing the amendment) to clients only when disciplinary information in the brochure or supplement becomes materially inaccurate.

The brochure assists the client in determining whether to retain, or continue employing, the adviser. The information that Rule 204–3 requires to be contained in the brochure is also used by the Commission and staff in its enforcement, regulatory, and examination programs. This collection of information is found at 17 CFR 275.204–3 and is mandatory.

The respondents to this information collection are investment advisers registered with the Commission. The Commission has estimated that compliance with rule 204–3 imposes a burden of approximately 31 hours annually based on an average adviser having 1,200 clients. Our latest data indicate that there were 10,754 advisers registered with the Commission as of January 2, 2013. Based on this figure, the Commission estimates a total annual burden of 331,456 hours for this collection of information.

Rule 204–3 does not require recordkeeping or record retention. The collection of information requirements under the rule are mandatory. The information collected pursuant to the rule is not filed with the Commission, but rather takes the form of disclosures to clients and prospective clients. Accordingly, these disclosures are not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14800 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form S–6, OMB Control No. 3235–0184, SEC File No. 270–181.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is ''Form S–6 (17 CFR 239.16), for Registration under the Securities Act of 1933 of Securities of Unit Investment Trusts Registered on Form N–8B–2 (17 CFR 274.13).'' Form S–6 is a form used for registration under the Securities Act of 1933 (15 U.S.C. 77a

et seq.) (''Securities Act'') of securities of any unit investment trust (''UIT'') registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') on Form N–8B–2.[1] Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N–8B–2 file post-effective amendments to their registration statements on Form S–6 in order to update their prospectuses.

The purpose of Form S–6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. This information collection differs significantly from many other federal information collections, which are primarily for the use and benefit of the collecting agency. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission estimates that there are approximately 1,287 initial registration statements filed on Form S–6 annually and approximately 1,268 annual post-effective amendments to previously effective registration statements filed on Form S–6. The Commission estimates that the hour burden for preparing and filing an initial registration statement on Form S–6 is 45 hours and for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S–6 is 40 hours. Therefore, the total burden of preparing and filing Form S–6 for all affected UITs is 108,635 hours.

The information collection requirements imposed by Form S–6 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14794 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

[1] Form N–8B–2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 7d–1, OMB Control No. 3235–0311, SEC File No. 270–176.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 7(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–7(d)) (the ''Act'' or ''Investment Company Act'') requires an investment company (''fund'') organized outside the United States (''foreign fund'') to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds that it is both legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d–1 (17 CFR 270.7d–1) under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company (''Canadian fund'') may request an order from the Commission permitting it to register under the Act. Although rule 7d–1 by its terms applies only to Canadian funds, other foreign funds generally have agreed to comply with the requirements of rule 7d–1 as a prerequisite to receiving an order permitting the foreign fund's registration under the Act.

The rule requires a Canadian fund proposing to register under the Act to file an application with the Commission that contains various undertakings and agreements of the fund. The requirement for the Canadian fund to file an application is a collection of information under the Paperwork Reduction Act. Certain of the undertakings and agreements, in turn, impose the following additional information collection requirements:

(1) The fund must file with the Commission agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;

(2) the fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file with the Commission an irrevocable designation of the fund's custodian in the United States as agent for service of process;

(3) the fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;

(4) the fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 (15 U.S.C. 77a), and the Securities Exchange Act of 1934 (15 U.S.C. 78a), as applicable; and

(5) the fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

As noted above, under section 7(d) of the Act the Commission may issue an order permitting a foreign fund's registration only if the Commission finds that ''by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (Act).'' The information collection requirements are necessary to assure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Rule 7d–1 also contains certain information collection requirements that are associated with other provisions of the Act. These requirements are applicable to all registered funds and are outside the scope of this request.

The Commission believes that one foreign fund is registered under rule 7d–1 and currently active. Apart from requirements under the Act applicable to all registered funds, rule 7d–1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, certain fund agreements, designations of the fund's custodian as service agent, and the fund's list of affiliated persons. The Commission staff estimates that each year under the rule, the active registrant and its directors, officers, and service providers engage in the following collections of information and associated burden hours:

- For the fund and its investment adviser to maintain records in the United States: [1]

0 hours: 0 minutes of compliance clerk time.

- For the fund to update its list of affiliated persons:

2 hours: 2 hours of support staff time.

- For new officers, directors, and service providers to enter into and file agreements requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations:

0.5 hours: 7.5 minutes of director time;

2.5 minutes of officer time;

20 minutes of support staff time.

- For new officers, directors, and investment advisers who are not residents of the United States to file irrevocable designation of the fund's custodian as agent for process of service:

0.25 hours: 5 minutes of director time;

10 minutes of support staff time.

Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 2.75 hours.[2] We estimate that directors perform 0.21 hours of these burden hours at a total cost of $945,[3] officers perform 0.04 of these burden hours at a total cost of $17.32,[4] and support staff perform 2.5 of these burden hours at a total cost of $150.[5] Thus, the Commission estimates the aggregate annual cost of these burden hours associated with rule 7d-1 is $1112.32.[6]

If a fund were to file an application under rule 7d–1 to register under the Act, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied to register under the Act pursuant to rule 7d–1 in the last three years.

After registration, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. The active registrant filed a substantive supplemental application in 2011. The Commission staff estimates that the rule would impose an additional information collection burden of 5 hours on a fund to comply with the Commission's application process at a cost of $5,957.[7] The staff understands that funds also obtain assistance from outside counsel to comply with the Commission's application process and the cost burden of using outside counsel is set forth below.

Therefore, the Commission estimates the aggregate annual burden hours of the collection of information associated with rule 7d–1 is 7.75 hours, at a cost of $7,069.32.[8] These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d–1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated $17,280 to comply with the rule's initial information collection requirements. These costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions, designations for service of process, and the list of affiliated persons). Other related costs would include fees for establishing

[1] The rule requires an applicant and its investment adviser to maintain records in the United States (which, without the requirement, might be maintained in Canada or another foreign jurisdiction), which facilitates routine inspections and any special investigations of the fund by Commission staff. The registrant and its investment adviser, however, already maintain the registrant's records in the United States and in no other jurisdiction. Therefore, maintenance of the registrant's records in the United States does not impose an additional burden beyond that imposed by other provisions of the Act. Those provisions are applicable to all registered funds and the compliance burden of those provisions is outside the scope of this request.

[2] This estimate is based on the following calculation: (0 + 2 + 0.5 + 0.25) = 2.75 hours.

[3] The director estimates are based on the following calculations: (7.5 minutes + 5 minutes) / 60 minutes per hour = 0.21 hours; and 0.21 hours × $4500 per hour = $945. The per hour cost estimate is based on estimated hourly compensation for each board member of $500 and an average board size of 9 members.

[4] The officer estimates are based on the following calculations: 2.5 minutes / 60 minutes per hour = 0.04 hours; 0.04 hours × $433 per hour = $17.32. This per hour cost estimate, as well as other internal cost estimates for management and professional earnings, is based on the figure for chief compliance officers found in SIFMA's *Management & Professional Earnings in the Securities Industry 2011,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[5] The support staff estimates are based on the following calculations: 2 hours + 20 minutes + 10 minutes = 2.5 hours; and 2.5 hours × $60 per hour = $150. The per hour cost estimate, as well as other internal cost estimates for office salaries, is based on the figure for compliance clerks found in SIFMA's *Management & Professional Earnings in the Securities Industry 2011,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[6] This estimate is based on the following calculation: $1112.32 = $945 + $17.32 + $150.

[7] The staff estimates that, on average, the fund's investment adviser spends approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of $407 per hour, 0.5 hours by an administrative assistant, at a cost of $65 per hour, and the fund's board of directors spends an additional 1 hour at a cost of $4,500 per hour for a total of 5 hours, for a total cost of $5,957. This estimate is based on the following calculation: (3.5 hours × $407 per hour) + (0.5 hours × $65 per hour) + (1 hour × $4,500 per hour) = $5,957.

[8] These estimates are based on the following calculations: 2.75 hours + 5 hours = 7.75 hours; $1,112.32 + $5,957 = $7,069.32.

arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records, and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

The Commission expects that a foreign fund and its sponsors would incur these costs immediately, and that the annualized cost of the expenditures would be $17,280 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful. These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no fund has applied under rule 7d–1 to register under the Act pursuant to rule 7d–1 in the last three years.

As indicated above, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. The active registrant filed a substantive application in the past three years. The staff understands that funds generally use outside counsel to prepare the application. The staff estimates that outside counsel spends 10 hours preparing the application, including 8 hours by an associate and 2 hours by a partner. Outside counsel billing arrangements vary based on numerous factors, but the staff has estimated the average cost of outside counsel at $400 per hour, based on information received from funds, intermediaries and their counsel. The Commission therefore estimates that the fund would obtain assistance from outside counsel at a cost of $4000.[9]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14799 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

[9] This estimate is based on the following calculation: 10 hours × $400 per hour = $4,000.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30559; File No. 812–14046]

Sigma Investment Advisors, LLC, et al.; Notice of Application

June 14, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) Series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

APPLICANTS: Sigma Shares Exchange-Traded Fund Trust (''Trust''), Sigma Investment Advisors, LLC (''Initial Adviser''), and S-Network Global Indexes, LLC (an Affiliated Index Provider (defined below)).

DATES: *Filing Dates:* The application was filed on June 13, 2012 and amended on November 7, 2012, February 19, 2013, May 15, 2013 and June 13, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 9, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 267 Fifth Avenue New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: David J. Marcinkus, Attorney-Advisor at (202) 551–6882, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust that intends to register under the Act as an open-end management investment company with multiple series.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds. Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements

with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors (each, a ''Distributor''). Each Distributor will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The Distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [7] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8]

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] Currently S-Network Global Indexes, LLC is the only entity that will serve as Affiliated Index Provider. Any future entity that acts as Affiliated Index Provider will comply with the terms and conditions of the application.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance

Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

11. Instead of adopting the same or similar Policies and Procedures, Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day (''Portfolio Holdings''). Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

12. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

13. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

14. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology

on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[17] will be excluded from the Deposit Instruments and the Redemption Instruments;[18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Portfolio Securities and other assets of the Fund.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[22] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[23] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets,

[22] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[23] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, Applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[24]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns

[24] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[25] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[26]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) Any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated

[25] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[26] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[27] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[28] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

[27] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[28] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the

aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each

Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14804 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30560; 812–13991]

Guggenheim Funds Investment Advisors, LLC, et al.; Notice of Application

June 14, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) Series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares. The order would supersede prior orders.[1]

APPLICANTS: Claymore Exchange-Traded Fund Trust, Claymore Exchange-Traded Fund Trust 2, and Claymore Exchange-Traded Fund Trust 3 (each, a ''Trust''); Guggenheim Funds Investment Advisors, LLC (''Current Adviser''); and Guggenheim Funds Distributors, LLC (''Distributor'').

DATES: *Filing Dates:* The application was filed on December 16, 2011, and amended on September 6, 2012, February 8, 2013, April 18, 2013 and June 12, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 9, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: the Trusts, c/o Guggenheim Funds Investment Advisors, LLC, 2455 Corporate West Drive, Lisle, IL 60532; the Current Adviser and Distributor, 2455 Corporate West Drive, Lisle, IL 60532.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel at (202) 551–6879, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

2. The Current Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and is the investment adviser to the Funds. Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Distributor serves as the principal underwriter and distributor for each of the Funds. The Distributor is an affiliated person of the Current Adviser within the meaning of section 2(a)(3)(C) of the Act. Applicants request that the order also apply to any other future principal underwriter and distributor to Future Funds (defined below) (''Future Distributor''), provided that any such Future Distributor complies with the terms and conditions of the application. The Distributor is not, and no Future Distributor will be,

[1] Applicants previously received an order of exemption from the Commission with respect to the offering of funds based on indexes of domestic and foreign equity securities. *See* Investment Company Act Rel. Nos. 27469 (August 28, 2006) (notice) and 27483 (September 18, 2006) (order) (the ''Equity Order''). Applicants also received an order of exemption from the Commission with respect to the offering of funds based on indexes of fixed income securities, which was granted. *See* Investment Company Act Rel. Nos. 27982 (September 26, 2007) (notice) and 28019 (October 23, 2007) (order) (the ''Fixed Income Order''). Applicants also received an order of exemption from the Commission to permit certain funds to track an underlying index that is created, compiled, sponsored or maintained by an index provider that is an affiliated person, or an affiliated person of an affiliated person, of the fund, its investment adviser, distributor, promoter or any sub-adviser to the fund solely because the index provider serves as a sub-adviser to another fund advised by the adviser, which was granted. *See* Investment Company Act Rel. Nos. 29458 (October 7, 2010) (notice) and 29494 (November 2, 2010) (order) (the ''Affiliated Index Provider Order''). The Equity Order, Fixed Income Order and Affiliated Index Provider Order are collectively referred to as the ''Prior Order.''

affiliated with any Exchange (defined below).

4. The Trusts currently offer a number of series, each of which tracks a particular index and operates as an exchange-traded fund (''ETF'') (the ''Current Funds''). Applicants request that the order apply to the Current Funds and any additional series of a Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds'' and together with the Current Funds, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Current Adviser or an entity controlling, controlled by, or under common control with the Current Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.[2]

5. Each Fund holds or will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions[3], and in the case of Foreign Funds, Component Securities and Depositary Receipts[4] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. Each Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[7] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of a Trust or a Fund, of the Adviser, of any Sub-Adviser to or

[2] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. In addition, all of the applicants to the Prior Order have been named as applicants, and applicants will not continue to rely on the Prior Order if the requested order is issued. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Affiliated Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

11. Instead of adopting the same or similar Policies and Procedures, applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day (''Portfolio Holdings''). Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

12. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

13. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

14. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Current Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Securities Exchange Act of 1934 (''Exchange Act'') or the rules thereunder, of material non-public information by the Current Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[17] will be excluded from the Deposit Instruments and the Redemption Instruments;[18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer (''Broker'') or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Portfolio Securities and other assets of the Fund.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[22] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[23] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

[22] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[23] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed

at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) Prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) Secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[24]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds

[24] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

Affiliate would be able to exert undue influence over a Fund.[25] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[26]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) Any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or

[25] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[26] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[27] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[28] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither a Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under

[27] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[28] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the applicable Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest.

These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14805 Filed 6–20–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30558; File No. 812–14121]

Transparent Value Trust, et al.; Notice of Application

June 14, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

APPLICANTS: Transparent Value Trust (''Trust''), Transparent Value Advisors, LLC (''Initial Adviser''), and Transparent Value, LLC (an Affiliated Index Provider (defined below)).

FILING DATES: The application was filed on February 6, 2013 and amended on February 28, 2013, April 29, 2013, and June 11, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 9, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Richard F. Morris, Esq., Morgan, Lewis & Bockius LLP, 101 Park Avenue, New York, NY 10178.

FOR FURTHER INFORMATION CONTACT: David J. Marcinkus, Attorney-Advisor at (202) 551–6882, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Exemptive Applications Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds. Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors (each, a ''Distributor''). Each Distributor will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The Distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets (''Foreign Funds'').

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions [2], and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [7] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

11. Instead of adopting the same or similar Policies and Procedures,

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] Currently Transparent Value, LLC is the only entity that will serve as Affiliated Index Provider. Any future entity that acts as Affiliated Index Provider will comply with the terms and conditions of the application.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day (''Portfolio Holdings''). Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

12. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

13. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

14. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in

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Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[17] will be excluded from the Deposit Instruments and the Redemption Instruments;[18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $750,000 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Portfolio Securities and other assets of the Fund.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by

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transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

such purchasers or redeemers.[22] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[23] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

[22] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[23] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[24] Accordingly, with respect to Foreign Funds only, Applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[25]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[26] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for

[24] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[25] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[26] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[27]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) Any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing

[27] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Portfolio Securities held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[28] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[29] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching

[28] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[29] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14803 Filed 6–20–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69774; File No. SR–FICC–2013–06]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Request To Extend the Pilot Program for Certain Government Securities Division Rules Relating to the GCF Repo® Service

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that, on

[1] 15 U.S.C. 78s(b)(1).

June 5, 2013, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes [2] as described in Items I, II and III below, which Items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes consist of modifications to the Rulebook of the Government Securities Division (''GSD'') in connection with the GCF Repo® service.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

FICC is seeking the Commission's approval to extend the current pilot program (the ''2012 Pilot Program'') that is currently in effect for the GCF Repo® service. FICC is requesting that the 2012 Pilot Program be extended for one year following the Commission's approval of the present filing.[4]

By way of background, on July 12, 2011, FICC submitted a rule filing to the Commission (SR–FICC–2011–05) proposing to make certain changes to its GCF Repo service in order to comply with the recommendations that had been made by the Task Force on Triparty Reform (''TPR''), an industry group formed and sponsored by the Federal Reserve Bank of New York.[5] Because the GCF Repo service operates as a triparty mechanism, FICC was requested to incorporate changes to the GCF Repo service to align the service with the other TPR recommended changes for the overall triparty market.

The rule change described in SR–FICC–2011–05 was proposed to be run as a pilot program for one year starting from the date on which the filing was approved by the Commission (the ''2011 Pilot Program'').[6] Throughout 2011 and the earlier half of 2012, FICC implemented a portion of the rule changes that were included in SR–FICC–2011–05. As the expiration date of the 2011 Pilot Program approached, FICC elected to have certain aspects of the 2011 Pilot Program continue, however, FICC also proposed to make certain modifications to the 2011 Pilot Program. As a result, on June 8, 2012, FICC submitted a rule filing for the 2012 Pilot Program (SR–FICC–2012–05).[7] Because the 2012 Pilot Program is now approaching its expiry date, FICC is proposing to continue this pilot.[8]

Background: Description of the GCF Repo Service and History

(1) Creation of the GCF Repo Service

The GCF Repo service allows GSD dealer members to trade general collateral repos [9] throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment (DVP) basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with inter-dealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying Fedwire book-entry eligible collateral, which includes Treasuries, Agencies, and certain mortgage-backed securities.

The GCF Repo service was developed as part of a collaborative effort among GSCC (FICC's predecessor), its two clearing banks (The Bank of New York Mellon (''BNY'') and JPMorgan Chase Bank, National Association (''Chase''))—and industry representatives. GSCC introduced the GCF Repo service on an *intra*-clearing bank basis in 1998.[10] Under the intrabank service, dealers could only engage in GCF Repo transactions with other dealers that cleared at the *same* clearing bank.

(2) Creation of the Interbank Version of the GCF Repo Service

In 1999, GSCC expanded the GCF Repo service to permit dealer participants to engage in GCF Repo trading on an *inter*-clearing bank basis, meaning that dealers using *different* clearing banks could enter into GCF Repo transactions (on a blind brokered basis).[11] Because dealer members that participate in the GCF Repo service do not all clear at the same clearing bank, introducing the service as an interbank service necessitated the establishment of a mechanism to permit after-hours movements of securities between the two clearing banks to deal with the fact that GSCC would likely have unbalanced net GCF securities and cash positions within each clearing bank (that is, it is likely that at the end of GCF Repo processing each business day, the dealers in one clearing bank will be net funds borrowers, while the dealers at the other clearing bank will be net funds lenders). To address this issue, GSCC and its clearing banks established, and the Commission approved, a legal mechanism by which securities would ''move'' across the clearing banks without the use of the securities Fedwire.[12] (Movements of cash do not present the same issue because the cash Fedwire is open later than the securities Fedwire.) Therefore, at the end of the day, after the GCF net results are produced, securities are pledged via a tri-party-like mechanism and the interbank cash component is moved via

[2] The rule changes described in this notice already appear in the rulebook of FICC's Government Securities Division because the Commission temporarily approved the changes in 2012. *See* Securities Exchange Act Release No. 67621 (August 8, 2012), 77 FR 48572–01 (August 14, 2012) (SR–FICC–2012–05). As the Commission's approval will expire in August 2013, this filing seeks Commission approval to extend those rule changes for one additional year.

[3] GCF Repo is a registered trademark of FICC/DTCC.

[4] If FICC determines to change the parameters of the service during the one-year Pilot Program extension period, it will submit a rule filing to the Commission. If FICC seeks to extend the Pilot Program beyond the one-year period or proposes to make the Pilot Program permanent, it will also submit a rule filing to the Commission.

[5] The main purpose of the TPR was to develop recommendations to address the risk presented by triparty repo transactions due to the current morning reversal or ''unwind'' process and to move to a process by which transactions are collateralized all day.

[6] Securities Exchange Act Release No. 34–65213 (August 29, 2011), 76 FR 54824 (September 2, 2011)(SR–FICC–2011–05).

[7] Securities Exchange Release No. 34–67621 (August 8, 2012); 77 FR 48572 (August 14, 2012) (SR–FICC–2012–05).

[8] If FICC determines to change the parameters of the service during the one-year Pilot Program extension period, it will submit a rule filing to the Commission. If FICC seeks to extend the Pilot Program beyond the one-year period or proposes to make the Pilot Program permanent, it will also submit a rule filing to the Commission.

[9] A general collateral repo is a repo in which the underlying securities collateral is nonspecific, general collateral whose identification is at the option of the seller. This is in contrast to a specific collateral repo.

[10] *See* Securities Exchange Act Release No. 34–40623 (October 30, 1998) 63 FR 59831 (November 5, 1998) (SR–GSCC–98–02).

[11] *See* Securities Exchange Act Release No. 34–41303 (April 16, 1999) 64 FR 20346 (April 26, 1999) (SR–GSCC–99–01).

[12] *See id.* for a detailed description of the clearing bank and FICC accounts needed to effect the after-hour movement of securities.

Fedwire. In the morning, the pledges are unwound, that is, funds are returned to the net funds lenders and securities are returned to the net funds borrowers.

The following simplified example illustrates the manner in which the GCF Repo services works on an interbank basis:

Assume that Dealer B clears at BNY and Dealer C clears at Chase. Further assume that: (i) Outside of FICC, Dealer B engages in a triparty repo transaction with Party X to obtain funds and seeks to invest such funds via a GCF Repo transaction, (ii) outside of FICC, Dealer C engages in a DVP repo with Party Y to buy securities and seeks to finance these securities via a GCF Repo transaction, and (iii) Dealer B and Dealer C enter into a GCF Repo transaction (on a blind basis via a GCF Repo broker) and submit the trade details to FICC.

At the end of ''Day 1,'' GCF Repo collateral must be allocated, i.e., Dealer B must receive the securities. However, the securities that Dealer B is to receive are at Chase and the securities Fedwire is closed. The after-hours movement mechanism permits the securities to be ''sent'' to Dealer B as follows: FICC will instruct Chase to allocate to a special FICC clearance account at Chase securities in an amount equal to the net short securities position.

FICC has established on its own books and records two ''securities accounts'' as defined in Article 8 of the New York Uniform Commercial Code, one in the name of Chase (''FICC Account for Chase'') and one in the name of BNY (''FICC Account for BNY''). The FICC Account for Chase is comprised of the securities in FICC's special clearance account maintained by BNY (''FICC Special Clearance Account at BNY for Chase''), and the FICC Account for BNY is comprised of the securities in FICC's special clearance account maintained by Chase (''FICC Special Clearance Account at Chase for BNY'').[13] The establishment of these securities accounts by FICC in the name of the clearing banks enables the bank that is in the net long securities position to ''receive'' securities by pledge after the close of the securities Fedwire. Once the clearing bank has ''received'' the securities by pledge, it can credit them by book-entry to a FICC GCF Repo account at that clearing bank and then to the dealers that clear at that bank that are net long the securities in connection with GCF Repo trades.

In our example, Chase, as agent for FICC, will transmit to BNY a description of the securities in the FICC Special Clearance Account at Chase for BNY. Based on this description, BNY will transfer funds equal to the funds borrowed position to the FICC GCF Repo account at Chase. Upon receipt of the funds by Chase, Chase will release any liens it may have on the FICC Special Clearance Account at Chase for BNY, and FICC will release any liens it may have on FICC Account for BNY (both of these accounts being comprised of the same securities). BNY will credit the securities in the FICC Account for BNY to FICC's GCF Repo account at BNY, and BNY will further credit these securities to Dealer B, who, as noted, is in a net long securities position. In the morning of ''Day 2,'' all securities and funds movements occurring on Day 1, are reversed (''unwind'').

(3) Issues With Morning Unwind Process

In 2003, FICC shifted the GCF Repo service back to intrabank status only.[14] By that time, the service had grown significantly in participation and volume. However, with the increase in use of the interbank service, certain payments systems risk issues arose from the inter-bank funds settlements related to the service, namely, the large interbank funds movement in the morning. FICC shifted the service back to intrabank status to enable management to study the issues presented and identify a satisfactory solution for bringing the service back to interbank status.

(4) The NFE Filing and Restoration of Service to Interbank Status

In 2007, FICC submitted a rule filing to address the issues raised by the interbank morning funds movement and return the GCF Repo service to interbank status (the ''2007 NFE Filing'').[15] The 2007 NFE Filing addressed these issues by using a hold against a dealer's ''net free equity'' (''NFE'') at the clearing bank to collateralize its GCF Repo cash obligation to FICC on an intraday basis.[16]

The 2007 NFE Filing replaced the Day 2 morning unwind process with an alternate process, which is currently in effect. Specifically, in lieu of making funds payments, the interbank dealers grant to FICC a security interest in their NFE-related collateral equal to their prorated share of the total interbank funds amount. FICC, in turn, grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank. The debit in the FICC account (''Interbank Cash Amount Debit'') occurs because the dealers who are due to receive funds in the morning must receive those funds at that time in return for their release of collateral. The debit in the FICC account at the clearing bank gets satisfied during the end of day GCF Repo settlement process. Specifically, that day's new activity yields a new interbank funds amount that will move at end of day—however, this amount gets netted with the amount that would have been due in the morning, thus further reducing the interbank funds movement. The NFE holds are released when the interbank funds movement is made at end of day. The 2007 NFE Filing did not involve any changes to the after-hours movement of securities occurring at the end of the day on Day 1. Using our simplified example:

On the morning of Day 2, Dealer C who needs to return funds in the unwind, instead of returning the funds in the morning, grants to FICC a security interest in Dealer C's NFE-related collateral equal to its funds movement (we have assumed only one GCF Repo transaction took place in this simplified example). FICC, in turn, grants BNY (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at BNY. As noted above, the debit in FICC's account at BNY arises because, under the current processing, Dealer B must receive its funds during the morning unwind. The FICC debit is then satisfied during the end of day GCF Repo settlement process.

As part of the 2007 NFE Filing, FICC imposed certain additional risk management measures with respect to the GCF Repo service. First, FICC imposed a collateral premium (called ''GCF Premium Charge'') on the GCF Repo portion of the Clearing Fund deposits of all GCF participants to further protect FICC in the event of an

[13] FICC has appointed Chase as its agent to maintain FICC's books and records with respect to the BNY securities account, and FICC has appointed BNY as its agent to maintain FICC's books and records with respect to the Chase securities account.

[14] *See* Securities Exchange Act Release No. 34–48006 (June 10, 2003), 68 FR 35745 (June 16, 2003) (SR–FICC–2003–04).

[15] *See* Securities Exchange Act Release No. 34–57652 (April 11, 2008), 73 FR 20999 (April 17, 2008) (SR–FICC–2007–08).

[16] NFE is a methodology that clearing banks use to determine whether an account holder (such as a dealer) has sufficient collateral to enter a specific transaction. NFE allows the clearing bank to place a limit on its customer's activity by calculating a value on the customer's balances at the bank. Bank customers have the ability to monitor their NFE balance throughout the day.

intra-day default of a GCF Repo participant. FICC requires GCF Repo participants to submit a quarterly ''snapshot'' of their holdings by asset type to enable Risk Management staff to determine the appropriate Clearing Fund premium. Members who do not submit this required information by the deadlines established by FICC are subject to fine and an increased Clearing Fund premium, as with all other instances of late submission of required information.

Second, the 2007 NFE Filing addressed the situation where FICC becomes concerned about the volume of interbank GCF Repo activity. Such a concern might arise, for example, if market events were to cause dealers to turn to the GCF Repo service for increased funding at levels beyond normal processing. The 2007 NFE Filing provides FICC with the discretion to institute risk mitigation and appropriate disincentive measures in order to bring GCF Repo levels to a comfortable level from a risk management perspective.[17]

2011 Pilot Program—Proposed Changes to the GCF Repo Service To Implement the TPR's Recommendations

In SR–FICC–2011–05, FICC proposed the following rule changes with respect to the GCF Repo service to address the TPR's Recommendations:

(1)(a) To move the Day 2 unwind from 7:30 a.m. to 3:30 p.m., (b) to move the NFE process [18] from morning to a time established by the Corporation as announced by notice to all members,[19] (c) to move the cut-off time of GCF Repo submissions from 3:35 p.m. to 3:00 p.m., and (d) to move the cut-off time for dealer affirmation or disaffirmation from 3:45 p.m. to 3:00 p.m.

(2) To establish rules for intraday GCF Repo collateral substitutions (i.e., SR–FICC–2011–05 stated that with respect to interbank GCF Repo transactions, the substitution process will only permit cash as an initial matter to accommodate current processing systems, however, as noted below, the substitution process will permit cash and/or securities).

During the term of the 2011 Pilot Program, FICC implemented the proposed changes referred to in subsections 1(c) and 1(d) above and during the term of the 2012 Pilot Program, FICC implemented the proposed changes referred to in subsections 1(a), 1(b) and 2 above.

(1) Proposed Change Regarding the Morning Unwind and Related Rule Changes

The TPR recommended that the Day 2 unwind for all triparty transactions be moved from the morning to 3:30 p.m. The TPR made this recommendation in order to achieve the benefit of reducing the clearing banks' intraday exposure to the dealers. As stated, because the GCF Repo service is essentially a triparty mechanism, the TPR requested that FICC accommodate this time change. For the GSD rules, this necessitated a change to the GSD's ''Schedule of GCF Timeframes.'' Specifically, the 7:30 a.m. time in the Schedule was deleted and the language therein was moved to a new time of 3:30 p.m.

Because the Day 2 unwind moved from the morning to 3:30 p.m. and because the NFE process established by the 2007 NFE Filing is tied to the moment of the unwind, the NFE process also was required to move. During 2012, when the systems processing for the tri-party reform effort continued on the part of the clearing banks, the unwind moved to 3:30 p.m. and the funds continued to move between the two clearing banks at 5:00 p.m.; the NFE hold which applies to dealers moved to between 3:30 p.m. and 5:00 p.m. Because the NFE process is a legal process and not an operational process, it is not reflected on the Schedule of GCF Timeframes and therefore no change to the Schedule was required to accommodate the move of the NFE process. A change was needed in Section 3 of GSD Rule 20 to delete the reference to the ''morning'' timeframe on Day 2 with respect to the NFE process and to add language referencing ''at the time established by the Corporation.''

(2) Proposed Change Regarding Intraday GCF Repo Securities Collateral Substitutions

As a result of the time change of the unwind (i.e., the reversal on Day 2 of collateral allocations established by FICC for each netting member's GCF net funds borrower positions and GCF net funds lender positions on Day 1) to 3:30 p.m., the provider of GCF Repo securities collateral in a GCF Repo transaction on Day 1 no longer has possession of such securities at the beginning of Day 2. Therefore, during Day 2 prior to the unwind of the Day 1 collateral allocations, the provider of GCF Repo securities collateral (in our simple example, Dealer C) needs a substitution mechanism for the return of its posted GCF Repo securities collateral in order to make securities deliveries for utilization of such securities in its business activities. (In our example, Dealer C may need to return the securities to Party Y depending upon the terms of their transaction.) In the 2012 Pilot Program, FICC established a substitution process for this purpose in conjunction with its clearing banks. The language for the substitution mechanism was added to Section 3 of GSD Rule 20. It provides that all requests for substitution for the GCF Repo securities collateral must be submitted by the provider of the GCF Repo securities collateral (i.e., Dealer C) by the applicable deadline on Day 2 (the ''substitution deadline'').[20]

Substitutions on Intrabank GCF Repos

If the GCF Repo transaction is between dealer counterparties effecting the transaction through the same clearing bank (i.e., on an intra-clearing bank basis and in our example Dealer C and other dealers clearing at Chase), on Day 2 such clearing bank will process each substitution request of the provider of GCF Repo securities collateral (i.e., Dealer C) submitted prior to the substitution deadline promptly upon receipt of such request. The return of the GCF Repo securities collateral in

[17] Specifically, the 2007 NFE filing introduced the term ''GCF Repo Event'', which will be declared by FICC if either of the following occurs: (i) The GCF interbank funds amount exceeds five times the average interbank funds amount over the previous ninety days for three consecutive days; or (ii) the GCF interbank funds amount exceeds fifty percent of the amount of GCF Repo collateral pledged for three consecutive days. FICC reviews these figures on a semi-annual basis to determine whether they remain adequate. FICC also has the right to declare a GCF Repo Event in any other circumstances where it is concerned about GCF Repo volumes and believes it is necessary to declare a GCF Repo Event in order to protect itself and its members. FICC will inform its members about the declaration of the GCF Repo Event via important notice. FICC will also inform the Commission about the declaration of the GCF Repo Event.

[18] No other changes are being proposed to the NFE process that was in place by the 2007 NFE Filing; the risk management measures that were put in place by the 2007 NFE Filing remain in place with the present proposal.

[19] SR–FICC–2011–05 noted that the possible time range would be 8 a.m. to 1 p.m. to coincide with the collateral substitution mechanism that was being developed between FICC and its clearing banks. In rule filing SR–FICC–2012–05, FICC clarified that the 8:00 a.m. to 1:00 p.m. proposed time range in SR–FICC–2011–05 referred to the clearing bank hold on the FICC interest in the NFE (i.e., as part of the NFE process, FICC grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE—related collateral to support the debit in the FICC account at the clearing bank). At present, given the move of the NFE process (as discussed in more detail below), this proposed time range has now moved from 8:00 a.m. to 3:30 p.m.

[20] As noted in SR–FICC–2012–05, FICC will establish such deadline prior to the implementation of the changes to this service in conjunction with the clearing banks and the Federal Reserve in light of market circumstances. As noted in Important Notice GOV088.12, once delivery has been made to GSD on the new obligations for that business day, no substitutions will be permitted for the remainder of the day.

exchange for cash and/or eligible securities of equivalent value can be effected by simple debits and credits to the accounts of the GCF Repo dealer counterparties at the clearing agent bank (i.e., in our example, Chase). Eligible securities for this purpose will be the same as what is currently permitted under the GSD rules for collateral allocations, namely, Comparable Securities,[21] (ii) Other Acceptable Securities,[22] or (iii) U.S. Treasury bills, notes or bonds maturing in a time frame no greater than that of the securities that have been traded (except where such traded securities are U.S. Treasury bills, substitution may be with Comparable Securities and/or cash only).

Substitutions on Interbank GCF Repos

For a GCF Repo that was processed on an interbank basis and to accommodate a potential substitution request, FICC initiates a debit of the securities in the account of the lender through the FICC GCF Repo accounts at the clearing bank of the lender and the FICC GCF Repo account at the clearing bank of the borrower (''Interbank Movement''). This Interbank Movement is done so that a borrower who elects to substitute collateral will have access to the collateral for which it is substituting. The Interbank Movement occurs in the morning, though the clearing banks and FICC have the capability to have the Interbank Movement occur at any point during the day up until 2:30 p.m. During the 2012 Pilot Program, FICC and the clearing banks implemented a change to unwind the intrabank GCF Repo transactions at 3:30 p.m.

In the example above, the GCF Repo securities collateral will be debited from the securities account of the receiver of the collateral (i.e., Dealer B) at its clearing bank (i.e., BNY), and from the FICC Account for BNY. If a substitution request is received by the clearing bank (i.e., Chase) of the provider of GCF Repo securities collateral, prior to the substitution deadline at a time specified in FICC's procedures,[23] that clearing bank will process the substitution request by releasing the GCF Repo securities collateral from the FICC GCF Repo account at Chase and crediting it to the account of the provider of GCF Repo securities collateral (i.e., Dealer C). All cash and/or securities substituted for the GCF Repo securities collateral being released will be credited to FICC's GCF Repo account at the clearing bank (i.e., Chase).

Simultaneously, with the debit of the GCF Repo securities collateral from the account at the clearing bank (i.e., BNY) of the original receiver of GCF Repo securities collateral (i.e., Dealer B), for purposes of making payment to the original receiver of securities collateral (i.e., Dealer B), such clearing bank will effect a cash debit equal to the value of the securities collateral in FICC's GCF Repo account at such clearing bank and will credit the account of the original receiver of securities collateral (i.e., Dealer B) at such clearing bank with such cash amount. (This is because when Dealer B is debited the securities, Dealer B must receive the funds.) In order to secure FICC's obligation to repay the balance in FICC's GCF Repo account at such clearing bank (i.e., BNY), FICC will grant to such clearing bank a security interest in the cash and/or securities substituted for the GCF securities collateral in FICC's GCF repo account at the other clearing bank (i.e., Chase).

Using the example from above, assume the Dealer C submits a substitution notification—it requires the securities collateral that has been pledged to Dealer B and will substitute cash and/or securities. BNY will debit the securities from Dealer B's account and the relevant liens will released so that the securities are in FICC's account at Chase. Chase will credit the securities to Dealer C's account and the cash and/or securities that Dealer C uses for its collateral substitution will be credited by Chase to FICC's account at Chase. From Dealer B's perspective, when BNY debits the securities from Dealer B's account, Dealer B is supposed to receive the funds—but as noted, the funds are at Chase. BNY will credit the funds to Dealer B's account and debit FICC's account at BNY.

At this point in our example, FICC is running a credit at Chase and a debit at BNY. In order to secure FICC's debit at BNY, FICC will grant a security interest in the funds in the FICC account at Chase.

For substitutions that occur with respect to GCF Repo transactions that were processed on an inter-clearing bank basis, FICC and the clearing banks permit cash and/or securities for the substitutions. The proposed rule change provided FICC with flexibility in this regard by referring to FICC's procedures.

As noted above, each of the above-referenced changes were approved in connection with SR–FICC–2011–05 [24] and 2012–05 [25]. FICC proposes to extend the pilot program reflecting these changes for an additional one year. The changes referenced above are reflected in Exhibit 5.

(ii) The proposed rule change is consistent with the Securities and Exchange Act of 1934, as amended (the ''Act'') and the rules and regulations promulgated thereunder because it will align the GCF Repo service with recommendations being made by the TPR to address risks in the triparty market overall and therefore will serve to further safeguard the securities and funds for which FICC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any negative impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

[21] The GSD rules define ''Comparable Securities'' as follows: The term ''Comparable Securities'' means, with respect to a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number.

[22] The GSD rules define ''Other Acceptable Securities'' as follows: The term ''Other Acceptable Securities'' means, with respect to: (an) adjustable-rate mortgage-backed security or securities issued by Ginnie Mae, any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (an) adjustable-rate mortgage-backed security or securities issued by either Fannie Mae or Freddie Mac: (a) Any fixed-rate mortgage-backed security or securities issued by Fannie Mae and Freddie Mac, (b) any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (c) any adjustable-rate mortgage-backed security or securities issued by Ginnie Mae.

[23] Rule filing SR–FICC–2012–05 noted that this timeframe would also be established in consultation with the clearing banks and the Federal Reserve. At that time, the parties were considering whether to have the substitution process be accomplished in two batches during the day depending upon the time of submission of the notifications for substitution. The clearing banks, however, developed a real-time substitution mechanism for both tri-party and GCF collateral making batch processing unnecessary.

[24] Securities Exchange Act Release No. 34–65213 (August 29, 2011) 76 FR 54824 (September 2, 2011).

[25] Securities Exchange Act Release No. 34–67277 (June 20, 2012) 77 FR 38108 (June 26, 2012).

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comment@sec.gov.* Please include File Number SR–FICC–2013–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington DC 20549–1090.

All submissions should refer to File Number SR–FICC–2013–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2013/ficc/SR-FICC-2013-06.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–FICC–2013–06 and should be submitted on or before July 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2013–14795 Filed 6–20–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69773; File No. SR–BYX–2013–020]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 2013, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule effective June 7, 2013, in order to amend the fee structure related to its Retail Price Improvement (''RPI'') program. Specifically, the Exchange is proposing to: (i) Apply standard pricing to all securities participating in the RPI program; (ii) eliminate the language related to groups of securities; and (iii) eliminate RPI-specific fees for non-displayed liquidity. In summary, the Exchange is proposing a simplification of the fees and rebates applied to the RPI program, such that the Exchange will: Provide a $0.0025 rebate per share for a Retail Order [6] that removes liquidity from the BYX order book, except for a Retail Order that removes displayed liquidity, which will be subject to standard rebates and fees; and charge a $0.0025 fee per share for any Retail Price Improving Order [7] that adds liquidity to the Exchange order book and is removed by a Retail Order.

Under the RPI program as currently constituted, the Exchange generally provides a rebate of $0.0025 per share for Retail Orders that remove liquidity from the Exchange order book in Group

[26] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined in BYX Rule 11.24(a)(2), a ''Retail Order'' is an agency order that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

[7] As defined in BYX Rule 11.24(a)(3), a ''Retail Price Improvement Order'' consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such.

1 Securities [8] and provides a rebate of $0.0010 per share for a Retail Order that removes liquidity from the Exchange order book in Group 2 Securities.[9] For executions of Retail Orders that remove displayed liquidity, however, the Exchange's fee schedule states that it applies standard removal pricing (i.e., either a $0.0005, $0.0006, or $0.0007 per share liquidity removal rebate or an execution free of charge) rather than pricing that is specific to the RPI program. Additionally, the Exchange currently charges any Retail Price Improving Order or non-displayed order that is added to the Exchange a fee of $0.0025 per share for Group 1 Securities and $0.0010 per share for Group 2 Securities.

As described above, the Exchange intends to simplify pricing for the RPI program by making the following changes:

Standard Pricing for All Securities

The Exchange is proposing to apply flat pricing for all securities in the RPI program (''RPI Securities''), without regard to securities groups. Specifically, the Exchange is proposing to provide a $0.0025 rebate per share for a Retail Order that removes liquidity from the BYX order book, except for a Retail Order that removes displayed liquidity, in all securities participating in the RPI program. The Exchange is also proposing to charge a $0.0025 per share fee for any Retail Price Improving Order that adds liquidity to the BYX order book that is removed by a Retail Order. As described above, the Exchange currently has different pricing for executions in RPI Securities depending on whether the security is included in Group 1 Securities or Group 2 Securities. Under this proposal, the Exchange would eliminate the $0.0010 per share rebate and fee applicable to Group 2 Securities and then apply existing Group 1 Securities pricing to all RPI Securities: A $0.0025 per share rebate for removing liquidity or a $0.0025 per share fee for adding liquidity.

Eliminating Securities Groups

In conjunction with the proposed change to apply standard pricing for all RPI Securities, the Exchange is proposing to eliminate from its fee schedule references to Group 1 Securities and Group 2 Securities. As described above, the Exchange currently offers different rebates and fees as part of the RPI program for executions based on the group in which the security falls. As proposed, the Exchange will offer a flat fee or rebate without regard to any grouping, which renders the distinction in the fee schedule unnecessary. As such, the Exchange is proposing to eliminate any references to Group 1 Securities and Group 2 Securities in the fee schedule, including the securities included in these groups.

RPI Fees for Non-Displayed Liquidity

Also in conjunction with the proposed change to standard pricing for the RPI program, the Exchange is proposing to eliminate pricing specific to the RPI program related to non-displayed orders. As described above, the Exchange currently charges non-displayed orders that are added to the BYX order book $0.0025 per share in Group 1 Securities and $0.0010 per share for Group 2 Securities. The Exchange is proposing to eliminate this RPI program pricing for non-displayed orders and instead to charge a flat fee of $0.0010 per share for non-displayed liquidity that is removed by a Retail Order, which is intentionally the same as the standard fee for executions of non-displayed liquidity. Based on this change, the Exchange is also proposing to eliminate from the fee schedule the cross-reference to the Retail Order section in the fees for non-displayed liquidity for securities priced $1.00 or above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[10] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act [11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that its proposal to modify the fee schedule related to the RPI program is reasonable because eliminating the distinction between groups of securities and offering a single rebate and fee for participating executions creates a more easily understandable pricing structure for the RPI program. The Exchange believes that a simple pricing structure will help to garner increased participation in the RPI program, which will help improve execution quality generally, and for retail customers in particular.

The Exchange also believes that this proposal is equitably allocated and not unfairly discriminatory because it will be applied equally to all participants in all RPI Securities. While the Exchange acknowledges that certain executions for Retail Price Improvement Orders will be charged more under the proposal, specifically Retail Price Improving Orders that add liquidity to the BYX book and are removed by a Retail Order (which are charged $0.0010 per share under the current fee schedule, and would be charged $0.0025 per share as proposed), the Exchange believes that such costs are offset by the benefits of the standard pricing model and the ability to interact with a Retail Order. Additionally, all other executions under the current RPI program will realize increased rebates, reduced fees, or their rebates and fees for the execution will remain the same under the proposal. Further, the Exchange believes that charging Retail Price Improving Orders that are removed by a Retail Order more than non-displayed orders that are removed by a Retail Order is not unfairly discriminatory because non-displayed orders can interact with any order (a Retail Order or otherwise) and may not have any preference to interact with a Retail Order, while Retail Price Improvement Orders will only interact with Retail Orders. As such, the Exchange believes that it is not unfairly discriminatory to charge a higher fee for orders that will only interact with Retail Orders. Additionally, such pricing provides certainty in execution costs for non-displayed orders, regardless of the order that removes the non-displayed order. The Exchange again notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

Accordingly, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to apply standard pricing to all orders that are executed as part of the RPI program.

[8] As provided in the fee schedule, Group 1 Securities include: AAPL, SPY, FB, FAS, FAZ, IWM, C, GE, GOOG, and GLD.

[9] As provided in the fee schedule, Group 2 Securities include: SIRI, BAC, NOK, S, MU, F, AMD, JPM, HPQ, and XLF.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the market for order execution is extremely competitive, Members may choose to preference other market centers ahead of the Exchange if they believe that they can receive better fees or rebates elsewhere. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that its pricing for the RPI program is appropriately competitive vis-à-vis the Exchange's competitors. Further, the Exchange believes that providing a more straightforward pricing structure will encourage increased participation in the RPI program and will continue to incentivize the entry of aggressively priced, displayed liquidity, which fosters intra-market competition to the benefit of all market participants that enter orders on the Exchange, including Retail Orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2013–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2013–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2013–020, and should be submitted on or before July 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

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[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69776; File No. SR–BYX–2013–019]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2013, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal will be effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective June 4, 2013, in order to modify pricing related to executions that occur on EDGA EXCHANGE, Inc. (''EDGA'') through either a BYX + EDGA Destination Specific Order [6] or through the Exchange's TRIM routing strategies.[7] EDGA implemented certain pricing changes effective June 3, 2013, including modification from a rebate of $0.0004 per share when removing liquidity to a rebate of $0.0003 per share when removing liquidity. To maintain a direct pass through of the applicable economics for executions at EDGA, the Exchange proposes to rebate $0.0003 per share for an order routed through its TRIM routing strategies and executed on EDGA, rather than the rebate of $0.0004 per share that it currently offers for such orders. Similarly, because EDGA is part of the Exchange's ''One Under/Better'' pricing program for Destination Specific Orders, the Exchange intends to rebate $0.0001 per share more than if a Member executed an order directly on EDGA. Accordingly, the Exchange proposes to rebate $0.0004 per share for an order routed as a Destination Specific Order to EDGA and executed on EDGA, which is $0.0001 per share more than EDGA rebates directly. The Exchange's ''One Under/Better'' pricing does not apply to securities priced below $1.00. In addition, the Exchange will maintain the pricing currently charged by the Exchange for all other Destination Specific Orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[8] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed changes to certain of the Exchange's non-standard routing fees and strategies are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror or provide an improvement over the rebate applicable to the execution if such routed orders were executed directly by the Member at EDGA Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at EDGA Exchange, the proposed fee change is designed to equal or exceed the rebate that a Member would have received if such routed orders would have been executed directly by a Member at EDGA Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2013–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2013–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2013–019 and should be submitted on or before July 12, 2013.

[6] As defined in BYX Rule 11.9(c)(12).

[7] As defined in BYX Rule 11.13(a)(3)(G).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14831 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[(Release No. 34–69771; File No. SR–OCC–2013–09]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Separate the Powers and Duties Currently Combined in the Office of OCC's Chairman Into Two Offices, Executive Chairman and President, and Create an Additional Directorship To Be Occupied by the President

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2013, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by OCC. On June 10, 2013, OCC filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to separate the powers and duties currently combined in the office of OCC's Chairman into two offices, Executive Chairman and President, and create an additional directorship to be occupied by the President.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to provide for separation of the powers and duties currently combined in the office of OCC's Chairman into two offices, Executive Chairman and President, and create an additional directorship to be occupied by the President. These changes resulted from a review of the structure of OCC's Board, with particular consideration given to the trend in many corporations toward separating the positions of Chief Executive Officer and Chairman of the Board. OCC's Board of Directors ultimately determined that as a corporate governance matter dividing the powers and duties of the Chairman into two positions was desirable. Under the proposal, the Executive Chairman would be responsible for the control functions of OCC, including enterprise risk management, internal audit and compliance, as well as for external affairs, and for presiding at all meetings of the Board and the stockholders. The President would report to the Chairman and be responsible for all aspects of OCC's business that do not report directly to the Chairman. OCC intends that the President, who would be OCC's Chief Executive Officer,[4] would focus on the effectiveness of OCC's day-to-day operations, as well as strategic initiatives for the future, while the Chairman would provide objective oversight over the entire organization, including the President.

OCC believes that the proposed change would enhance oversight of management because the Chairman will be independent of most management functions. The separation would also avoid concentrating too much power over OCC's operations in the hands of a single individual, and heighten accountability of management to the Board. Furthermore, the Board of Directors found that separation of these offices would better align OCC's governance structure with global standards for financial services organizations.

While OCC's Board of Directors determined that its Chairman should no longer function as its chief executive officer, in light of OCC's status as a registered clearing organization and designated clearing organization, it concluded that the Chairman should have executive responsibilities relating to risk management, compliance and similar issues. The Board of Directors believes that the Chairman's direct oversight of these control functions will increase independence by limiting management's influence over them.[5] The Board also believes that the significance of these control functions for a clearing organization warrants full-time oversight, which can only be provided by an executive of OCC.

To reflect the above changes in its governance structure, OCC is proposing to revise Section 7 of Article III of its By-Laws to include OCC's President as a Management Director, along with OCC's Chairman. Accordingly, Sections 1, 7 and 12 of Article III will also be amended to reflect the existence of an additional Management Director. Furthermore, OCC proposes to amend Section 15 of Article III to grant the President the same authority to act in the case of an emergency as the Chairman and, consequently, OCC also proposes to remove the President as one of the ''Designated Officers'' to whom such authority would devolve if certain enumerated officers are unavailable. Section 3 of Article III would also be amended to clarify the timing of the annual meetings at which the initial election of each class of Member Directors in fact occurred.

OCC is proposing to revise Article IV of its By-Laws to include references to the President in certain provisions governing OCC's officers. In particular, Section 8 of Article IV would no longer give the Board the option of electing a President, but would make such office required, and, accordingly, Section 1 of Article IV would include the President, along with the Chairman, as an officer elected by the Board of Directors. Sections 6 and 8 would also be amended to specify the Chairman's duties and the President's duties, respectively, as described above. OCC also proposes to amend Sections 2, 3 and 13 of Article IV to provide that, like the Chairman, the President may appoint and remove certain officers and

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 modified Exhibit 3A to the original filing to correct an erroneous reference contained therein.

[4] While the By-Laws would make it clear that the President is OCC's Chief Executive Officer, for simplicity the officer in question would be referred to only as the ''President.''

[5] The proposed structure of OCC's Board, including the utilization of an executive chairman, is similar to that employed by the Depository Trust & Clearing Corporation and CME Group Inc. See Article III of the Depository Trust & Clearing Corporation's By-Laws, effective April 2012, *available at http://www.dtcc.com/legal/rules_proc/dtc_rules.pdf*, and Article V of CME Group Inc.'s Tenth Amended and Restated By-Laws, effective as of April 17, 2013, *available at http://investor.cmegroup.com/investor-relations/groupBylaws.cfm*).

agents to carry out the functions assigned to him and may determine the salaries of these appointees and agents. Finally, OCC is proposing to amend Sections 7 and 9 to add references to the President, in addition to the Chairman, when referencing the highest-ranking officers of OCC.

Amendments to Certificate of Incorporation and Stockholders Agreement

OCC is proposing to amend Articles IV and V of its Certificate of Incorporation to reflect the existence of an additional Management Director.[6] OCC is also proposing to amend Sections 2 and 3 of the Stockholders Agreement to provide for the election of the President, in addition to the Chairman, as a Management Director.[7]

Effect on Clearing Members

The proposed rule change relates to OCC governance issues. OCC believes that it would affect all clearing members equally, and that it would not impose any compliance burdens on clearing members.

Notice of Implementation

Following approval of this rule change by the Commission, OCC expects to provide notice to its clearing members of the date on which it intends to implement this rule change by separating the powers and duties of OCC's Chairman into two offices and creating the additional directorship. Such notice will be provided to clearing members through an information memo posted on OCC's Web site. The implementation of the rule change will occur no later than December 31, 2013.

OCC believes that the proposed rule change is consistent with Section 17A of the Act[8] and the rules and regulations thereunder, including Rule 17Ad–22(d)(8), because the proposed modifications would help ensure that the rules of OCC are designed to protect investors and the public interest[9] and that OCC's governance arrangements are clear and transparent, fulfill the public interests requirements in Section 17A, support the objectives of owners and participants and promote the effectiveness of OCC's risk management procedures[10] by separating the powers and duties currently combined in the office of Chairman into two offices.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[11] With respect to any burden on competition among clearing agencies, OCC is the only clearing agency that performs central counterparty services for the options markets.

Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency and the markets that the clearing agency serves. However, this proposed rule change primarily affects OCC in that it separates the powers and duties of the office of OCC's Chairman into two offices and creates an additional directorship. OCC does not believe that these changes with respect to governance would disparately treat any clearing member or group of clearing members or otherwise disparately affect access to or use of any of OCC's facilities or disadvantage or favor any user in relationship to any other such user. In this connection, OCC notes that the provision of Section 1 of Article III of the By-Laws that requires that the number of Member Directors must exceed the sum of the number of Exchange Directors and the number of Public Directors by at least one is not being changed as a result of the proposed rule change. In addition, OCC believes that the proposed rule change would in fact allow OCC's Board to supervise management more effectively and thereby help ensure against any particular clearing member's exercising undue influence over management to the detriment of other clearing members.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, that it would promote transparency, fairness and competition in the options markets served by OCC, and it would not impose any burden on competition that is unnecessary or inappropriate in furtherance of the purposes of the Act.[12]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2013–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2013–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE.,

[6] See the proposed Fifth Certificate of Amendment of Restated Certificate of Incorporation of the Options Clearing Corporation, attached hereto as Exhibit 3A.

[7] See Amendment No. 10 to the Stockholders Agreement, attached hereto as Exhibit 3B.

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(d)(8).

[11] 15 U.S.C. 78q–1(b)(3)(I).

[12] 15 U.S.C. 78q–1(b)(3)(I).

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing, and the amendment thereto, also will be available for inspection and copying at the principal office of OCC and on OCC's Web site: *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_09.pdf.http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_09_a1.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2013–09 and should be submitted on or before July 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14791 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69775; File No. SR–CBOE–2013–061]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Penny Pilot Program

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.42 relating to the Penny Pilot Program. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.42. Minimum Increments for Bids and Offers

The Board of Directors may establish minimum increments for options traded on the Exchange. When the Board of Directors determines to change the minimum increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of Rule 6.42 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Exchange Act and will file a rule change for effectiveness upon filing with the Commission. Until such time as the Board of Directors makes a change to the minimum increments, the following minimum increments shall apply to options traded on the Exchange:

(1) No change.

(2) No change.

(3) The decimal increments for bids and offers for all series of the option classes participating in the Penny Pilot Program are: $0.01 for all option series quoted below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS). For QQQQs, IWM, and SPY, the minimum increment is $0.01 for all option series. The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively-traded, multiply-listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day following [January 1, 2013] *July 1, 2013.* The Penny Pilot shall expire on [June 30, 2013] *December 31, 2013.*

(4) No change.

* * * *Interpretations and Policies:*

.01–.04 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on June 30, 2013. CBOE proposes to extend the Pilot Program until December 31, 2013. CBOE believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, CBOE proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[3] and would be added on the second trading day following July 1, 2013. CBOE will employ the same parameters to prospective replacement classes as approved and applicable in determining the existing classes in the Pilot Program, including excluding high-priced underlying securities.[4] CBOE will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program.

CBOE is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The month immediately preceding a replacement class's addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following July 1, 2013 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013.

[4] *See* Securities Exchange Act Release No. 60864 (October 22, 2009) (SR–CBOE–2009–76).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–061. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca-2009–44). *See also supra* note 4.

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–061 and should be submitted on or before July 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14796 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69777; File No. SR–BATS–2013–033]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

June 17, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the ''Equities Pricing'' section of its fee schedule effective June 4, 2013, in order to modify pricing related to executions that occur on EDGA EXCHANGE, Inc. (''EDGA'') through the Exchange's TRIM routing strategies.[6] EDGA implemented certain pricing changes effective June 3, 2013, including modification from a rebate of $0.0004 per share when removing liquidity to a rebate of $0.0003 per share when removing liquidity. To maintain a direct pass through of the applicable economics for executions at EDGA, the Exchange proposes to rebate $0.0003 per share for an order routed through its TRIM routing strategies and executed on EDGA, rather than the rebate of $0.0004 per share that it currently offers for such orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[7] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed changes to certain of the Exchange's non-standard routing fees and strategies are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the rebate applicable to the execution if such routed orders were executed directly by the Member at EDGA Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at EDGA Exchange, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at EDGA Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined in BATS Rule 11.13(a)(3)(G).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BATS–2013–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–033 and should be submitted on or before July 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14832 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69772; File No. SR–OCC–2013–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Change the Expiration Date For Most Option Contracts to the Third Friday of the Expiration Month Instead of the Saturday Following the Third Friday

June 17, 2013.

I. Introduction

On April 17, 2013 The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2013–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on May 6, 2013.[3] The Commission received one comment in response to the proposed rule change, in which the commenter expressed support for the change.[4] This order approves the proposed rule change.[5]

II. Description of the Proposed Rule Change

Proposal

The primary purpose of the proposed rule change is to allow OCC to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. Most option contracts (''Standard Expiration Contracts'') currently expire at the ''expiration time'' (11:59 p.m. Eastern Time) on the Saturday following the third Friday of the specified expiration month (''Expiration Date'').[6]

The proposed change applies only to series of Standard Expiration Contracts opened for trading after the effective date of this proposed rule change and having Expiration Dates later than February 1, 2015. Option contracts having non-standard expiration dates (''Non-standard Expiration Contracts'') are unaffected by this proposed rule change.[7]

In order to provide a smooth transition to the Friday expiration, OCC intends to, beginning June 21, 2013, move the expiration exercise procedures to Friday for all Standard Expiration Contracts even though the contracts would continue to expire on Saturday.[8] After February 1, 2015, virtually all Standard Expiration Contracts will expire on Friday. According to OCC, the only Standard Expiration Contracts that will expire on a Saturday after February 1, 2015 are certain options that were listed prior to the effectiveness of this rule change,[9] and a limited number of options that may be listed prior to necessary systems changes of the options exchanges, which are expected to be completed in August 2013.[10] After the transition period and the expiration of all existing Saturday-expiring

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–69480 (April 30, 2013), 78 FR 26413 (May 6, 2013).

[4] See Comment from John V. Bruzzese dated May 3, 2013 (stating that the change would be ''beneficial for [the] option expiration process'') (*http://sec.gov/comments/sr-occ-2013-04/occ201304-1.htm*).

[5] OCC also filed the proposed rule change as an advance notice under Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act''). 12 U.S.C. 5465(e)(1); SR–OCC–2013–802.

[6] *See* the definition of ''expiration time'' in Article I of OCC's By-Laws. According to OCC, the expiration time would continue to be 11:59 p.m. Eastern Time on the Expiration date.

[7] Examples of options with Non-standard Expiration Contracts include flex options and quarterly, monthly, and weekly options where the expiration exercise processing for such options presently occurs on a weekday.

[8] For contracts having a Saturday expiration date, exercise requests received after Friday expiration processing is complete but before the Saturday contract expiration time will continue to be processed so long as they are submitted in accordance with OCC's procedures governing such requests.

[9] According to OCC, certain option contracts have already been listed on exchanges with expiration dates as distant as December 2016. Such options have Saturday expiration dates and OCC cannot change the terms of existing option contracts. In addition, clearing members have expressed a clear preference not to have open interest in any particular month with different expiration dates. Therefore, OCC will designate certain expiration dates as ''grandfathered,'' and any option contract that is listed, or may be listed in the future, that expires on a grandfathered date will have a Saturday expiration date even if such expiration date is after February 1, 2015. After OCC designates an expiration date as grandfathered, the exchanges have agreed not to permit the listing of, and OCC will not accept for clearance, any newly listed standard expiration option contract with a Friday expiration in the applicable month.

[10] The exchanges have agreed that once these systems changes are made they will not open for trading any new series of option contracts with Saturday expiration dates falling after February 1, 2015.

options, expiration processing should be a single operational process and should run on Friday night for all Standard Expiration Contracts.

In connection with moving from Saturday to Friday night processing and expiration, OCC reviewed other aspects of its business to confirm that there would be no unintended consequences, and concluded that there would be none. For example, OCC believes the proposed changes do not affect OCC's liquidity forecasting procedures, nor do they impact OCC's liquidity needs, since OCC's liquidity forecasts and liquidity needs are driven by settlement obligations, which occur on the same day (T+3) irrespective of the move to Friday night processing and expiration dates.

According to OCC, industry groups, clearing members, and options exchanges have been active participants in planning for the transition to the Friday expiration. OCC has obtained assurances from all options industry participants that they will be ready to move to Friday night expiration processing by June 2013.

Rule Changes

In order to implement the change to Friday expiration processing and eventual transition to Friday expiration for all Standard Expiration Contracts, OCC is amending the definition of ''expiration date'' in Article I and certain other articles of the By-Laws. As amended, the applicability of the definition is no longer limited to stock options, and the definition of ''expiration date'' in certain articles of the By-Laws therefore is deleted in reliance on the Article I definition. OCC is also amending Rule 805, and all rules supplementing or replacing Rule 805, to allow for Friday expiration processing during the transition to Friday expiration. OCC is also amending section 18 of Article VI of the By-Laws to align procedures for delays in producing Expiration Exercise Reports and submission of exercise instructions with the amended expiration exercise procedures in Rule 805. OCC is amending Rule 801 to modify the prohibition against exercising an American-style option contract on the business day prior to its expiration date, because this prohibition is necessary only for options expiring on a Saturday and to remove clearing members' ability to revoke or modify exercise notices in order to accommodate the compressed Friday expiration processing expiration schedule.

Finally, OCC is amending Rules 801 and 805 to allow certain determinations to be made by high-level officers of OCC, rather than the Board of Directors, in order to provide OCC with greater operational flexibility in processing exercise requests received after Friday expiration processing is complete but before the Saturday contract expiration time, and to replace various references to the expiration date of options with reference to the procedures of Rule 805.

Under the proposed change, OCC is preserving the ability of the options exchanges to designate (or, in the case of flexibly structured options, permit clearing members to designate) non-standard expiration dates for options, or classes or series of options, so long as the designated expiration date is not a date OCC has specified as ineligible to be an expiration date.

III. Discussion

Section 19(b)(2)(C) of the Act [11] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [12] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

By changing the expiration date for most Standard Expiration Contracts to the third Friday of the expiration month and moving the expiration exercise procedures to Friday for all Standard Expiration Contracts, the rule change should help to promote the prompt and accurate clearance and settlement of securities transactions as well as foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. As mentioned above, the rule change will allow OCC to streamline the expiration process among Standard Expiration, Non-standard Expiration Contracts, quarterly options, and weekly options and also align expiration processing schedules for United States markets with expiration processing schedules for European markets.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [13] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–OCC–2013–04) be and hereby is *approved.*[15] However, the proposed changes that are the subject of the proposed rule change shall not take effect until all regulatory actions required with respect to the proposed changes are completed.[16]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2013–14793 Filed 6–20–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(2)(C).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78q–1.

[14] 15 U.S.C. 78s(b)(2).

[15] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] OCC also filed the proposed rule change as an advance notice under Section 806(e)(1) of the Clearing Supervision Act. 12 U.S.C. 5465(e)(1); SR–OCC–2013–802. Proposed changes filed under the Clearing Supervision Act may be implemented pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. 12 U.S.C. 5465(e)(1)(G).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13614 and #13615]

Illinois Disaster Number IL–00042

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Illinois (FEMA–4116–DR), dated 06/06/2013.

Incident: Severe Storms, Straight-line Winds and Flooding.

Incident Period: 04/16/2013 through 05/05/2013.

Effective Date: 06/13/2013.

Physical Loan Application Deadline Date: 08/05/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Illinois, dated 06/06/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Carroll, Cass, Calhoun, Greene, Lawrence, Mcdonough, Monroe, Morgan, Peoria, Schuyler, Scott, Shelby, Tazewell, Will.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Jerome Edwards,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–14822 Filed 6–20–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13620 and #13621]

Vermont Disaster #VT–00026

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Vermont (FEMA–4120–DR), dated 06/13/2013.

Incident: Severe Storms and Flooding.

Incident Period: 05/22/2013 through 05/26/2013.

Effective Date: 06/13/2013.

Physical Loan Application Deadline Date: 08/12/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/13/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/13/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Chittenden, Essex, Lamoille.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13620B and for economic injury is 13621B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Jerome Edwards,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–14823 Filed 6–20–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2013–0010]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB))—Match Number 1006

AGENCY: Social Security Administration.

ACTION: Notice of a renewal of an existing computer matching program that will expire on September 1, 2013.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with RRB.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs

comply with the requirements of the Privacy Act, as amended.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Railroad Retirement Board (RRB)

A. Participating Agencies

SSA and RRB

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the terms, conditions, and safeguards under which RRB, as the source agency, will disclose RRB annuity payment data to us, the recipient agency. We will use the information to verify Supplemental Security Income (SSI) and Special Veterans Benefits (SVB) eligibility and benefit payment amounts. We will also record the railroad annuity amounts RRB paid to SSI and SVB recipients in the Supplemental Security Income Record (SSR).

C. Authority for Conducting the Matching Program

The legal authority for the disclosure under this agreement for the SSI portion are sections 1631(e)(1)(A) and (B) and 1631(f) of the Social Security Act (Act) (42 U.S.C. 1383(e)(1)(A) and (B) and 1383(f)). The legal authority for the disclosure under this agreement for the SVB portion is section 806(b) of the Act (42 U.S.C. 1006(b)).

D. Categories of Records and Persons Covered by the Matching Program

RRB will provide us with an electronic data file containing annuity payment data from RRB's system of records, RRB–22 Railroad Retirement, Survivor, and Pensioner Benefits System, last published on July 26, 2012 (75 *FR* 43727). We will match RRB's data with data maintained in the SSR, Supplemental Security Income Record and Special Veterans Benefits, SSA/ODSSIS, 60–0103, last published on January 11, 2006 (71 *FR* 1830). SVB data also resides on the SSR.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is September 2, 2013, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2013–14808 Filed 6–20–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Space Transportation Infrastructure Matching (STIM) Grants Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of non-availability of Space Transportation Infrastructure Matching Grants in FY 2013.

SUMMARY: The Office of Commercial Space Transportation (AST) will not solicit or award grants under the STIM program this fiscal year.

FOR FURTHER INFORMATION CONTACT: Doug Graham (AST–100), Office of Commercial Space Transportation (AST), 800 Independence Avenue SW., Room 331, Washington, DC 20591, telephone (202) 267–8568; Email *doug.graham@faa.gov.*

Issued in Washington, DC, on June 10, 2013.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2013–14859 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0030]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 15, 2013. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 22, 2013.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2013–0030.

FOR FURTHER INFORMATION CONTACT: Shane D. Boone, 202–493–3064, Nondestructive Evaluation Research Program, Federal Highway Administration, Department of Transportation, 6300 Georgetown Pike, McLean, VA 22101. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Non-Destructive Inspection Protocol for Reinforced Concrete Highway Barriers and Bridge Railings.

Background: Highway barriers and bridge railings serve to prevent errant vehicles from departing the travelway at grade separations. Most bridge railings are made of reinforced concrete. Despite the important role that they play in maintaining safety and their ubiquitous nature, barrier inspection rarely moves beyond visual inspection. In August of 2008, tractor-trailer dislodged a section of barrier on the William Preston Lane, Jr. Memorial Bridge. Portions of the displaced barrier separated and the tractor-trailer fatally departed the bridge. Investigations following the accident identified significant corrosion of the anchor bolts attaching the bridge railing to the bridge deck.

As a result of the information gathered during its investigation of the accident, the National Transportation Safety Board (NTSB) made recommendations to the Federal Highway Administration concerning Non-Destructive Evaluation of concrete bridge railings. One of these recommendations (H–10–18) is as follows:

> Expand the research and development of nondestructive evaluation technologies to develop bridge inspection methods that augment visual inspections; offer reliable measurement techniques; and are practical, both in terms of time and cost, for field inspection work; and promote the use of these technologies by bridge owners.

The barrier on the Preston Lane, Jr. Memorial Bridge was unique in that the anchor bolts connecting the barrier to the deck were exposed. This exposure allowed inspection of the remaining anchor bolts directly using ultrasonic testing. In contrast, most barriers have configurations where the steel anchorage is completely embedded in the deck and barrier.

Most reinforced concrete barriers are anchored to the deck of a bridge or retaining wall using reinforcing steel protruding from the main structure or by anchored bars or bolts during retrofits. Corrosion of steel bars or bolts can weaken this attachment and reduce the capacity of the barrier. The most direct damage resulting from corrosion is the reduction of steel diameter and cross-sectional area. Steel corrosion in concrete is caused primarily by two reasons: chloride induced corrosion and carbonation induced corrosion. Barriers are generally located at or very near the gutter-line of a roadway and may have significant long-term exposure to corrosive deicing materials.

It is beyond the capacity of visual inspection to identify and evaluate concrete voids and corrosion of anchorage mechanisms embedded in concrete. A literature review revealed that some promising research has been done using NDE methods to evaluate reinforced concrete and the embedded steel reinforcement.

Effective corrosion detection methods are just one piece of the barrier and railing maintenance puzzle. Identification of when to use advanced NDE tools as well as to what level the capacity is likely impacted by the measured deterioration will be examined as a part of this project. In order to most effectively investigate the correct barrier and railing designs, it was noted that input from the state DOTs was required. Thus, a survey to determine what protocols for design, fabrication, installation, and inspection was created and should be disseminated to the 50 state DOTs and also to the DC and Puerto Rico DOTs.

Respondents: All 50 state DOTs and also DC and Puerto Rico DOTs. 52 total.

Frequency: Once.

Estimated Average Burden per Response: Approximately 2 hours to collect the necessary information and 1 hour to fill out the survey.

Estimated Total Annual Burden Hours: Approximately 156 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 17, 2013.

Michael Howell,

Information Collection Officer.

[FR Doc. 2013–14871 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0034]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 20, 2013.

ADDRESSES: You may submit comments identified by DOT Docket ID 2013–0034 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Ferroni, 202–366–3233, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 6:00 a.m. to 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Noise Barrier Inventory.

Background: The basis of the Federal-aid highway program is a strong federal-state partnership. At the core of that partnership is a philosophy of trust and flexibility, and a belief that the states are in the best position to make investment decisions and that states base these decisions on the needs and priorities of their citizens. The FHWA noise regulation (23 CFR part 772) gives each state department of transportation (SDOT) flexibility to determine the feasibility and reasonableness of noise abatement by balancing of the benefits of noise abatement against the overall adverse social, economic, and environmental effects and costs of the noise abatement measures. The SDOT must base its determination on the interest of the overall public good, keeping in mind all the elements of the highway program (need, funding, environmental impacts, public involvement, etc.).

Reduction of highway traffic noise should occur through a program of shared responsibility with the most effective strategy being implementation of noise compatible planning and land use control strategies by state and local governments. Local governments can use their power to regulate land development to prohibit noise-sensitive land use development adjacent to a highway, or to require that developers plan, design, and construct development in ways that minimize noise impacts. The FHWA noise regulations limit Federal participation in the construction of noise barriers along existing highways to those projects proposed along lands where land development or substantial construction predated the existence of any highway.

The data reflects the flexibility in noise abatement decision-making. Some states have built many noise barriers while a few have built none. Through the end of 2010, 47 SDOTs and the Commonwealth of Puerto Rico have constructed over 2,748 linear miles of barriers at a cost of over $4.05 billion ($5.44 billion in 2010 dollars). Three states and the District of Columbia have not constructed noise barriers. Ten SDOTs account for approximately sixty-

two percent (62%) of total barrier length and sixty-nine percent (69%) of total barrier cost. The type of information requested can be found in 23 CFR 772.13(f).

The previously distributed listing can be found at *http://www.fhwa.dot.gov/environment/noise/noise_barriers/inventory/summary/sintro7.cfm.* This listing continues to be extremely useful in the management of the highway traffic noise program, in our technical assistance efforts for State highway agencies, and in responding to inquiries from congressional sources, Federal, State, and local agencies, and the general public. An updated listing of noise barriers will be distributed nationally for use in the highway traffic noise program. It is anticipated that this information will be requested in 2014 (for noise barriers constructed in 2011, 2012 and 2013) and then again in 2017 (for noise barriers constructed in 2014, 2015 and 2016). After review of the ''Summary of Noise Barriers Constructed by December 31, 2004'' document, a SDOT may request to delete, modify or add information to any calendar year.

Respondents: Each of the 50 SDOTs, the District of Columbia, and the Commonwealth of Puerto Rico.

Frequency: Every 3 years.

Estimated Average Burden per Response: It is estimated that on average it would take 8 hours to respond to this request.

Estimated Total Annual Burden Hours: It is estimated that the estimated total annual burden is 139 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 17, 2013.

Michael Howell,

Information Collection Officer.

[FR Doc. 2013–14868 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0038]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 20, 2013.

ADDRESSES: You may submit comments identified by DOT Docket ID 2013–0038 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Cheung, 202–366–6994 or Brian Fouch, 202–366–0744, Office of Safety Design Team, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 7 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Roadway Departure Safety Profile.

Background: Roadway departure fatalities account for 53 percent of all highway deaths in the United States. Identifying roadway departure crash types and locations is an important part of the FHWA Office of Safety's development of an internal Roadway Departure Strategic Plan. To assist in this effort, FHWA seeks to focus on the following primary emphasis areas based on crash type: overturning, opposite direction, and fixed-object crashes (particularly trees and utility poles). Recognizing that States face similar issues in preventing such crashes, the FHWA proposes to collect information from each State to identify and document methods and knowledge gained about addressing fixed object crashes. This includes gathering details and descriptions of State policies including design guidance, clear zone policies; case studies, innovative best practices, and notable strategies/projects to address fixed object crashes; studies or data that document the effectiveness of implemented countermeasures, policies, or design guidance in reducing the number and/or severity of vehicle crashes into roadside trees and utility poles and other fixed objects; and lessons learned. In addition to State policies, FHWA is interested in documenting any ''special projects'' that States have used to enhance roadside safety, such as the Colleton County I–95 Timber Harvest Project. The purpose of the project was to identify areas along interstate highways that would enhance forest health, improve and enhance aesthetics, and improve highway safety. The result of the project culminated in identifying 15 potential forestation thinning sites. By thinning these forested areas, the South Carolina DOT hopes to reduce the incidence of fixed-object crashes involving trees adjacent to the roadway. Such efforts are outside of State's typical design practices but can have a positive effect on roadside safety. Additionally, FHWA would encourage States, as part of the information gathering, to share information about local efforts by cities and counties. Using the information gathered, FHWA will develop a Synthesis of State practices. A part of the survey will involve a set of questions to determine the current ''State of the State'' regarding Roadway Departure safety. From the information gathered, FHWA will develop a Roadway Departure Safety Profile Report for each State to support future technical assistance to the State DOTs, FHWA Division office, and local agencies.

The survey will be disseminated electronically, enabling respondents to answer questions via a link established specifically for the purposes of this survey.

Respondents: Approximately 52 representatives from State DOTs, Washington, DC, and Puerto Rico.

Frequency: One time survey.

Estimated Average Burden per Response: Approximately 16 hours per response.

Estimated Total Annual Burden Hours: Approximately 832 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 17, 2013.

Michael Howell,

Information Collection Officer.

[FR Doc. 2013–14869 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0033]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 22, 2013. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 22, 2013.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2013–0033.

FOR FURTHER INFORMATION CONTACT: Shane D. Boone, business phone: 202–493–3064, Nondestructive Evaluation Research Program, Federal Highway Administration, Department of Transportation, 6300 Georgetown Pike, McLean, VA 22101. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Feasibility of Element-Level Bridge Inspection for Non-National Highway System Bridges.

Background: The ''*Moving Ahead for Progress in the 21st Century Act*'' or the *''MAP–21''* legislation, Section 1111, modified 23 U.S.C. 144 to include a requirement for each State and appropriate Federal agency to report element level bridge inspection data to the Secretary, as each bridge is inspected, for all highway bridges on the National Highway System (NHS). The data is to be reported to the Federal Highway Administration (FHWA) not later than 2 years after the date of enactment of MAP–21. Additionally, MAP–21 included a requirement for a study on the benefits, cost-effectiveness, and feasibility of requiring element level data collection for bridges not on the NHS. The goal of this project shall be to complete a study of the benefits, cost-effectiveness, and feasibility of requiring element-level bridge inspection data collection for bridges not on the National Highway System. A proposed methodology for completing this research shall be established through outreach to key stakeholders. The methodology is to also define the types of analyses to be used to evaluate benefits, cost-effectiveness and feasibility.

Analysis of Federal Register Notice Comments from the 60-Day Notice

Comments on the March 22, 2013 **Federal Register** notice were received from thirty commenters. Twenty-two of the commenters represented county agencies, seven represented State Departments of Transportation, and one represented a Federal Agency. Seventeen County representative comments were from Iowa. Two commenters were from the same local agency in Michigan. Nearly all comments focused on the feasibility, benefits, and cost-effectiveness of element level bridge inspection data collection on non-National Highway System (non-NHS) bridges rather than on the actual data collection to be done as part of the legislatively mandated study. The purpose of the notice was to gather comments on the actual data collection to be done during the study. One commenter addressed the study data collection effort. The Iowa Department of Transportation stated that the study is necessary because the FHWA needs to be aware of the unique issues facing the various jurisdictions in the nation. They concurred in the estimate of two hours to respond to questions as part of the study.

They recommended the use of a few standardized questions to help with clarity and usefulness of the data and noted that an on-line response to questions would expedite the collection and analysis of the data. The FHWA will consider these suggestions as it undertakes the study.

The comments that offered opinions on the benefits, costs, and feasibility of element data collection on non-NHS bridges will be considered during the actual study.

Respondents: State transportation agencies, Association of State Highway and Transportation Officials (AASHTO), National Association of County Engineers (NACE), toll authorities (state, local, private), FHWA Offices of Policy, Bridge Technology, and selected FHWA Divisions and other Federal bridge-owning agencies, and selected individual local agencies. Specific AASHTO subcommittees to be contacted include the Subcommittee on Bridges and Structures and the Subcommittee on Maintenance.

Frequency: One time per participant.

Estimated Average Burden per Response: Approximately 2 hours to collect the necessary information and write a response.

Estimated Total Annual Burden Hours: Approximately 200 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 17, 2013.

Michael Howell,

Information Collection Officer.

[FR Doc. 2013–14867 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Kenosha, Racine, Milwaukee, Waukesha, Washington, Dodge, Fond Du Lac, Winnebago, Outagamie and Brown Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Revised Notice of Intent.

SUMMARY: The FHWA is issuing this revised notice to advise the public that FHWA and Wisconsin Department of Transportation (WisDOT) will not prepare a Tier 1 Environmental Impact Statement (EIS) for the proposed Interstate conversion of U.S. Highway 41 in Milwaukee, Waukesha, Washington, Dodge, Fond du Lac, Winnebago, Outagamie, and Brown Counties, Wisconsin. A Notice of Intent to prepare an EIS was published in the **Federal Register** on July 26, 2011.

FOR FURTHER INFORMATION CONTACT: Tracey Blankenship, Major Projects Program Manager, Federal Highway Administration, 525 Junction Road, Suite 8000, Madison, WI 53717; Telephone: (608) 829–7500. You may also contact Tammy Rabe, Wisconsin Department of Transportation, 944 Vanderperren Way, Green Bay, WI 54324; Telephone: 920–492–5661.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with WisDOT, will not prepare an EIS as previously intended on a proposal to convert U.S. Highway 41 to an Interstate in Milwaukee, Waukesha, Washington, Dodge, Fond du Lac, Winnebago, Outagamie, and Brown Counties, Wisconsin. Under Sections 1304(b) and (c) of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act—A Legacy for Users (SAFETEA–LU) the 142-mile U.S. Highway 41 corridor between Milwaukee and Green Bay was designated as a High Priority Corridor on the National Highway System and as a future part of the Interstate System.

FHWA and WisDOT selected a tiered EIS as the project's document type because of uncertainty about the project's level of controversy and potentially significant impacts caused by the Interstate's more restrictive oversize and overweight regulations, more restrictive off-property outdoor advertising regulations, the change in route number, and potential future improvements required to bring U.S. Highway 41 to Interstate standards. Input received from participating agencies, cooperating agencies, the public, the business community, trucking industry and outdoor advertising industry, throughout the project as well as at 6 public information meetings held in May 2012, has shown support for the project and a lack of controversy. Impacts of installing Interstate signs and future improvements related to the Interstate conversion were analyzed to determine impacts on socioeconomic and natural resources as well as the trucking and outdoor advertising industries. As a result of this analysis, FHWA and WisDOT determined that Interstate conversion meets the definition of a categorical exclusion as described in 23 CFR 771.117 and 40 CFR 1508.4, and based on past experience with similar actions, does not have significant environmental impacts. FHWA and WisDOT will complete an Environmental Report to document environmental analyses, impacts of the proposed project, and the detailed basis for the determination that the project meets the definition of a categorical exclusion. At a February 2013 meeting, Participating and Cooperating Agencies, including USEPA, Wisconsin DNR, and USACE, concurred with FHWA's and WisDOT's proposal. FHWA and WisDOT will continue agency coordination and public involvement activities with the change in document type.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Electronic Access

An electronic copy of this document may be downloaded from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661 by using a computer modem and suitable communications software. Internet users may reach the Office of **Federal Register**'s home page at: *http://www.archives.gov/* and the Government Printing Office's database at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 13, 2013.

George R. Poirier,

Division Administrator, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 2013–14563 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statements; National Summary of Rescinded Notices of Intent

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that five States have rescinded Notices of Intent (NOIs) to prepare nine Environmental Impact Statements (EIS) for proposed highway projects. The FHWA Division Offices, in consultation with the State departments of transportation (State DOT), determined that three projects were no longer viable and have formally cancelled the projects. No further Federal resources will be expended on these projects; the environmental review process has been terminated. Four projects are being reassessed and may be reconsidered in whole or in part, by the State DOT at a later time. One project is being rescoped and may not require an EIS. Finally, one project was rescinded without a specific reason for its rescission.

FOR FURTHER INFORMATION CONTACT: Bill Ostrum, Office of Project Development and Environmental Review, (202) 366–4651; Janet Myers, Office of the Chief Counsel, (202) 366–2019; Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by accessing the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's Web page at *http://www.gpoaccess.gov/nara.*

Background

The FHWA, as lead Federal agency under the National Environmental Policy Act (NEPA) and in furtherance of its oversight and stewardship responsibilities under the Federal-aid highway program, periodically requests that its Division Offices review, with the State DOTs, the status of all EISs and place those projects that are not actively progressing in a timely manner in an inactive project status. The FHWA maintains lists of active and inactive EIS projects on its Web site at *http://www.environment.fhwa.dot.gov/*. The FHWA has determined that inactive projects that are no longer a priority or that lack financial resources should be

rescinded with a **Federal Register** notice notifying the public that project activity has been terminated. This notice covers the time period since the last summary was issued on June 3, 2012, and published in the **Federal Register** at 77 FR 40406 (July 9, 2012). As always, FHWA encourages State DOTs to work with their FHWA Division Office to determine when it is most prudent to initiate an EIS in order to best balance available resources as well as the expectations of the public.

The FHWA is issuing this notice to advise the public that five States (Arizona, California, Mississippi, Nevada, and Texas) have recently rescinded previously issued NOIs for nine EISs for proposed highway projects. A listing of these projects, general location, original NOI date of publication in the **Federal Register**, and the date that the NOI was formally rescinded by notice published in the **Federal Register**, is provided below.

The FHWA Division Offices, in consultation with the State DOTs, determined that three projects were no longer viable and have formally cancelled the projects. The projects are: Vernalis Expressway along State Route 132 in San Joaquin and Stanislaus counties California; the connector road between I–10 and the intersection of SR43 and SR 603 outside Kiln, Mississippi; and Loop 9 from US 387 to IH 20 in Dallas and Ellis Counties, Texas.

Four projects are being reassessed and may be reconsidered, in whole or in part, by the State DOT at a later time. These projects include: I–10 Corridor Improvement Study in Maricopa County, Arizona; Sheep Mountain Parkway Transportation Project in Clark County, Nevada; Loop 1604 from I–35 to US 90 in Bexar County, Texas; and the SEIS for US 290/State Highway 71 West improvements through Oak Hill in Travis County, Texas.

One Project will be rescoped and may not require an EIS. This project is: Interstate 515 improvements from Las Vegas to Henderson in Clark County, Nevada.

Finally, one project was rescinded without a specific reason for its rescission. This project is: SR 75/282 Transportation Corridor Project in the city of Coronado, San Diego County, California.

State	Project name	Original NOI date	Rescinded NOI date
AZ	I–10 Corridor Improvement Study	2/4/2002	12/17/2012
CA	Vernalis Expressway	6/3/2002	10/2/2012
CA	State Route 75/282 Transportation Corridor Project	1/17/2007	11/7/2012
MS	Connector Road between I–10 and intersection of State Routes 43 and 603	8/26/2011	4/3/2013
NV	I–515 improvements	8/13/2004	6/20/2012
NV	Sheep Mountain Parkway Multimodal Transportation Project	11/6/2007	8/28/2012
TX	US 290/State Highway 71 West Improvements	8/15/2008	7/9/2012
TX	Loop 9 from US 287 to IH 20	8/2/2002	3/20/2013
TX	Loop 1604 from I–35 to US 90	7/31/2009	5/7/2013

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 14, 2013.

Victor M. Mendez,

Federal Highway Administrator.

[FR Doc. 2013–14827 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Notice of Fiscal Year (FY) 2014 Safety Grants and Solicitation for Applications

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; announcement of grant opportunities and application due dates.

SUMMARY: FMCSA announces the availability of FY 2014 safety grant opportunities and application due dates. Available grants include: the Motor Carrier Safety Assistance Program (MCSAP) Basic and Incentive grants; MCSAP New Entrant Safety Audit grants; MCSAP High Priority grants; Border Enforcement Grants (BEG); Commercial Driver's License Program Implementation (CDLPI) grants; Commercial Vehicle Information Systems and Networks (CVISN) grants; Safety Data Improvement Program (SaDIP) grants; Performance and Registration Information Systems Management (PRISM) grants; and Commercial Motor Vehicle (CMV) Operator Safety Training grants. These grant opportunities are authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), as amended by the Moving Ahead for Progress in the 21st Century Act (MAP–21).

DATES: Application deadlines are as follows: MCSAP Basic and Incentive grants—August 1, 2013; Border Enforcement grants—August 12, 2013; MCSAP New Entrant Safety Audit grants—August 26, 2013; MCSAP High Priority grants—September 9, 2013; CDLPI grants—January 13, 2014; CVISN grants—January 13, 2014; SaDIP grants—January 21, 2014; PRISM grants—January 27, 2014; CMV Operator Safety Training grants—February 3, 2014. Final dates will be published on the Federal Web site for discretionary grants, *Grants.gov.* If additional funding is available, the Agency may consider applications and plans submitted after the final due dates on a case-by-case basis.

FOR FURTHER INFORMATION CONTACT: The FMCSA Grant Management Help Desk at *FMCSA_GrantMgmtHelpdesk@dot.gov* by telephone at (202) 366–2967, or by mail at FMCSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background and Purpose

For each grant program, FMCSA will post a Notice of Funding Availability (NOFA) at *Grants.gov.* The NOFA will provide specific information on: the application process; national program priorities for FY 2014; evaluation criteria; required documents and certifications; grantee matching share; maintenance-of-expenditure requirements, if applicable; and additional information related to the availability of funds. The Agency also provides information on FMCSA grants and application procedures on its Web site at *http://www.fmcsa.dot.gov/about/*

GRANTS/financial-assistance.aspx. General information about these grants appears in the section of this notice titled ''Fiscal Year 2014 Safety Grants.''

To ensure timely review and award of all grants, applications must be submitted in accordance with the instructions in the NOFA for the specific grant requested and include all required information and attachments. FMCSA strongly encourages timely, complete applications, and may reject applications that are late, incomplete or lacking required attachments.

Fiscal Year 2014 Safety Grants

MCSAP Basic and Incentive Grants

Sections 4101(a) and 4106 of SAFETEA–LU, [Pub. L. 109–59, 119 Stat. 1144 (August 10, 2005)], as amended by secs. 32601 and 32603(a) of MAP–21 [Pub. L. 112–141, 126 Stat. 405, (July 6, 2012)] authorize FMCSA MCSAP grants. The goal of MCSAP Basic and Incentive grants is to develop and implement programs to improve CMV safety and reduce the number and severity of crashes and hazardous materials incidents involving CMVs through consistent, uniform, and effective CMV safety programs.

The FMCSA will reimburse each recipient no more than 80 percent of eligible costs incurred in carrying out approved projects from the State's Commercial Vehicle Safety Plan (CVSP); the recipient must provide 20 percent in matching funds. The FMCSA Administrator waives the matching funds requirement for the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. (*See* 49 CFR 350.305).

Under the Basic and Incentive grant programs, a State lead agency for administering the CVSP, as designated by its Governor, (MCSAP lead agency) is eligible to apply for MCSAP Basic and Incentive grant funding by submitting an application in response to the NOFA. See 49 CFR 350.201, 350.205, and 350.213. In accordance with 49 CFR 350.323, the MCSAP Basic grant funds will be distributed proportionally to each State's lead MCSAP agency using the following four, equally weighted (25 percent) factors:

(1) 1997 road miles (all highways) as defined by the FMCSA;

(2) All vehicle miles traveled (VMT) as defined by the FMCSA;

(3) Population—annual census estimates as issued by the U.S. Census Bureau; and

(4) Special fuel consumption (net after reciprocity adjustment) as defined by the FMCSA.

A State's lead MCSAP agency also may qualify for Incentive Funds if FMCSA determines that the State's CMV safety program has shown improvement in any or all of the following five categories:

(1) Reduction in the number of large truck-involved fatal crashes;

(2) Reduction in the rate of large truck-involved fatal crashes or maintenance of a large truck-involved fatal crash rate that is among the lowest 10 percent of such rates of MCSAP recipients;

(3) Upload of CMV crash reports in accordance with current FMCSA policy guidelines;

(4) Verification of Commercial Driver's Licenses (CDL) during all roadside inspections; or

(5) Upload of CMV inspection data in accordance with current FMCSA policy guidelines.

The FMCSA calculates the amount of Basic and Incentive funding each State is to receive. This information is provided to the States and is made available on the Agency's Web site. The projected FY 2014 distribution is available at *http://www.fmcsa.dot.gov/safety-security/safety-initiatives/mcsap/mcsapforms.htm.* The amount indicated is based on FY 2013 estimated awards and includes Incentive funding. State distributions for FY 2014 may be impacted by the total amount appropriated in FY 2014 and variations in the factors for both the Basic and Incentive formulae. The MCSAP Basic and Incentive formula grants are awarded based on FMCSA's approval of the State's CVSP. Therefore, the evaluation factors for discretionary grant programs described in the section of this notice titled ''Evaluation Factors'' are not applicable.

Border Enforcement Grants

Sections 4101(c)(2) and 4110 of SAFETEA–LU, as amended by secs. 32603(c) and 32603(h) of MAP–21, authorize the Border Enforcement Grant (BEG) program. The goal of the program is to increase and enhance inspections of CMVs entering the United States. Additionally, the BEG program funds are utilized to ensure motor carriers operating CMVs entering the U.S. from a foreign country are in compliance with commercial vehicle safety standards and regulations, financial responsibility regulations and registration requirements of the U.S. and to ensure drivers of those vehicles are qualified and properly licensed to operate a CMV.

The FMCSA will reimburse each recipient 100 percent of eligible costs incurred in carrying out approved projects. Eligible applicants include State governments or entities within States that share a land border with Canada or Mexico that can carry out border CMV safety programs and related enforcement activities and projects. FMCSA encourages local government agencies to coordinate their applications with the State lead CMV inspection agency to prevent redundancy. Applications must include a Border Enforcement Plan.

New Entrant Safety Audit Grants

Section 4107(b) of SAFETEA–LU, amended by SAFETEA–LU Technical Corrections Act of 2008 [Pub. L. 110–244, sec. 301(b), 122 Stat. 1572, 1616 (June 6, 2008)], and as amended by sec. 32603(e) of MAP–21, authorizes the New Entrant Safety Audit grant program. The goal of the MCSAP New Entrant Safety Audit grant is to reduce CMV-involved crashes, fatalities, and injuries by reviewing new interstate motor carriers to ensure that they have effective safety management programs. Recipients may use these funds for salaries and related expenses of New Entrant auditors, including training and equipment, and to perform other eligible activities that are directly related to conducting safety audits.

The FMCSA will reimburse each recipient 100 percent of eligible costs incurred in carrying out approved projects. State and local governments are eligible for New Entrant Safety Audit grants.

MCSAP High Priority Grants

Section 4107(a) of SAFETEA–LU, amended by secs. 4101(a) and 4107 of the SAFETEA–LU Technical Corrections Act of 2008, as amended by secs. 32603(a) and 32603(d) of MAP–21, authorizes the MCSAP High Priority grant program. The goals of the MCSAP High Priority grant program are to implement, promote, and maintain national programs to improve CMV safety; increase compliance with CMV safety regulations; increase public awareness about CMV safety; provide education on CMV safety and related issues; and demonstrate new safety-related technologies.

The FMCSA will reimburse each recipient 100 percent of eligible costs incurred in carrying out approved projects related to public education and outreach activities. FMCSA will reimburse each grantee 80 percent of eligible costs incurred in carrying out approved projects related to all other activities; the recipient must provide 20 percent in matching funds for these activities. Eligible applicants are State agencies, local governments, and organizations representing government agencies that use and train qualified

officers and employees in coordination with State motor vehicle safety agencies. Participation of local law enforcement agencies is encouraged. When the NOFA is posted on *Grants.gov,* interested local law enforcement agencies should carefully review it for information about special considerations and application review processes.

Examples of High Priority activities include innovative traffic enforcement projects with particular emphasis on texting and hand-held cell phone prohibitions, work zone enforcement, rural road safety, and innovative traffic enforcement initiatives such as high-visibility traffic enforcement programs to promote safe driving behaviors among car and truck drivers.

CDLPI Grants

Sections 4101(c)(1) and 4124 of SAFETEA–LU, as amended by secs. 32603(c) and 32604 of MAP–21, authorize the CDLPI grant program. The goal of CDLPI grants is to improve highway safety by ensuring that States comply with the Federal regulations that require drivers of large trucks and buses to be qualified to obtain and hold the CDL necessary to operate those vehicles.

The FMCSA will reimburse each recipient 100 percent of eligible costs incurred in carrying out approved projects. Eligible applicants for CDLPI grants include the agency designated by each State as having the primary driver licensing responsibility, including development, implementation, and maintenance of the CDL program. State agencies, local governments, and other entities that can support a State's effort to improve its CDL program, or conduct projects on a national scale to improve the national CDL program, may also apply for projects under the High Priority and Emerging Issues component of this grant. Priority will be given to proposals that help States comply with 49 CFR parts 383 and 384, with specific emphasis on correcting previously identified areas of noncompliance.

CVISN Grants

Sections 4101(c)(4) and 4126 of SAFETEA–LU, as amended by secs. 32603(c) and 32605 of MAP–21, authorize the CVISN grant program. The goal of CVISN grants is to advance the technological capability of Intelligent Transportation System applications for CMV operations, including vehicle, commercial driver, and carrier-specific information systems and networks.

The FMCSA will reimburse each recipient 50 percent of eligible costs incurred in carrying out approved projects; the recipient must provide 50 percent in matching funds for these activities. The agency in each State designated as the primary agency responsible for the development, implementation, and maintenance of the CVISN-related systems is eligible to apply for grant funding.

Section 4126 of SAFETEA–LU establishes two types of CVISN projects: Core and Expanded. To be eligible for funding of Core CVISN deployment project(s), a State must have its most current Core CVISN Program Plan and Top-Level Design approved by FMCSA and the proposed project(s) should be consistent with its approved Core CVISN Program Plan and Top-Level Design. A State without an FMCSA-approved Core CVISN Program Plan and Top-Level Design may apply for funds to create one or to update an existing CVISN Program Plan and Top-Level Design.

A State may also apply for funds to prepare an Expanded CVISN Program Plan and Top-Level Design if FMCSA acknowledged the staff as having completed Core CVISN deployment. In order to be eligible for funding of any Expanded CVISN deployment project(s), a State must have its most current Expanded CVISN Program Plan and Top-Level Design approved by FMCSA and any proposed Expanded CVISN project(s) should be consistent with its Expanded CVISN Program Plan and Top-Level Design. A State without an FMCSA-approved Expanded CVISN Program Plan and Top-Level Design may apply for funds to create one or to update an existing Expanded CVISN Program Plan and Top-Level Design.

The maximum core deployment grant funding that FMCSA may award a State is an aggregate total of $2.5 million in CVISN Core funding across all fiscal years. The maximum expanded deployment grant that FMCSA may award a State in any fiscal year is $1 million. After FMCSA has awarded grants for the Core Deployment of CVISN, FMCSA will then use the remaining CVISN funds for proposals for the Expanded Deployment.

SaDIP Grants

Sections 4101(c)(5) and 4128 of SAFETEA–LU, as amended by sec 32603(c) of MAP–21, authorize Safety Data Improvement Program (SaDIP) grants. The goal of SaDIP grants is to improve the timeliness, efficiency, accuracy, and completeness of State processes and systems used to collect, analyze and report large truck and bus crash and inspection data.

The FMCSA will reimburse each recipient 80 percent of eligible costs incurred in carrying out approved projects; the recipient must provide 20 percent in matching funds for these activities. Eligible applicants are State agencies, including the territories of Puerto Rico, Guam, American Samoa, the Northern Marianas, and the U.S. Virgin Islands, and the District of Columbia. Applicants must certify that they have (1) conducted a comprehensive audit of its CMV safety data system within the preceding two years; (2) developed a plan that identifies and prioritizes its CMV safety data needs and goals; and (3) identified performance-based measures to determine progress toward those goals.

PRISM Grants

Sections 4101(c)(3) and 4109 of SAFETEA–LU, as amended by secs. 32602 and 32603(c) of MAP–21, authorize the PRISM grant program. The goal of the PRISM grant is to assist States in identifying motor carriers responsible for the safety of CMV operations and to monitor the safety fitness of those carriers by linking the vehicle registration process to safety performance monitoring and enforcement.

The FMCSA will reimburse each recipient 100 percent of eligible costs incurred in carrying out approved projects. Eligible applicants include States, U.S. Territories and Commonwealths, and the District of Columbia.

CMV Operator Safety Training Grants

Section 4134 of SAFETEA–LU, as amended by sec. 32603(g) of MAP–21, authorizes the CMV Operator Safety Training grant program. The goal of the CMV Operator Safety Training grant program is to train potential drivers in the safe operation of CMVs.

The FMCSA will reimburse each recipient 80 percent of eligible costs incurred in carrying out approved projects; the recipient must provide 20 percent in matching funds for these activities. Eligible applicants include State and local governments and accredited, post-secondary educational institutions (public or private) such as colleges, universities, vocational-technical schools and truck driver training schools. FMCSA will give priority to those schools that develop a program to assist current or former members of the U.S. Armed Forces (including Guard members and Reservists) and their spouses to receive training to transition to the CMV operation industry and provide job placement assistance after graduation. Secondary to the first National priority, FMCSA may also consider those

applicants that demonstrate in the application a capacity to recruit and train individuals and provide job placement assistance after graduation to persons in documented economically-distressed regions of the U.S.

Evaluation Factors

Below are evaluation factors that FMCSA will use to review applications for all FMCSA discretionary grants. Additional factors may be included in each NOFA. These factors are:

(1) Prior Performance (e.g., completion of identified programs and goals per the project plan submitted under previous grants awarded to the applicant), if applicable;

(2) Effective Use of Prior Grants (e.g., timely use of available funds in previous awards), if applicable;

(3) Safety and Cost Effectiveness (e.g., expected impact on safety relative to the investment of grant funds; where appropriate, cost per unit was calculated and compared with national averages to determine effectiveness; in other areas, proposed costs are compared with historical information to confirm reasonableness);

(4) Applicability to Announced Priorities; grant applications that specifically address these issues are given priority consideration;

(5) Ability of the applicant to support the strategies and activities in the proposal for the entire project period of performance;

(6) Use of innovative approaches in executing a project plan to address identified safety issues;

(7) Feasibility of overall program coordination and implementation based upon the project plan; and

(8) Other objective and performance-based criteria that FMCSA deems appropriate, such as consistency with national priorities, overall program balance, and geographic diversity.

Application Due Dates

For the following grant programs, FMCSA will consider funding complete applications or plans submitted by the following dates (any changes to these dates will be indicated in the *Grants.Gov* NOFA):

MCSAP Basic and Incentive Grants—August 1, 2013.

Border Enforcement Grants—August 12, 2013.

New Entrant Safety Audit Grants—August 26, 2013.

MCSAP High Priority Grants—September 9, 2013.

CDLPI Grants—January 13, 2014.

CVISN Grants—January 13, 2014.

SaDIP Grants—January 21, 2014.

PRISM Grants—January 27, 2014.

CMV Operator Safety Training Grants—February 3, 2014.

Applications submitted after due dates may be considered on a case-by-case basis and are subject to availability of funds.

Issued under the authority delegated in 49 CFR 1.87 on June 14, 2013.

William A. Quade,

Associate Administrator for Enforcement.

[FR Doc. 2013–14896 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0059]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated April 12, 2013, the Long Island Rail Road (LIRR) has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0059.

Applicant: Long Island Rail Road, Mr. Kevin Tomlinson, Chief Engineer, Jamaica Station, Jamaica, New York 11435.

LIRR seeks approval of the proposed modification of the railroad signal interlocking systems at DB & Cabin M drawbridges on the Montauk Branch in Long Island City, NY. The DB and Cabin M drawbridges are on the JCC Operating Division, with DB being on the C Secondary Track, near Dutch Kills Bridge Station, and Cabin M being on the Montauk Cutoff Secondary Track, near Bliss Station.

The modification includes the removal of all associated locking devices from the interlocking signal circuitry due to the installation of straight rail over both drawbridges, which permanently rendered the drawbridges fixed in place and no longer operable.

The reason for the proposed modifications is that the DB and Cabin M drawbridges were straight railed in September 2009, after the waterway had stopped being used. Both drawbridges had deteriorated, and funding for repair or replacement could not be secured. The remaining locking devices, including rail locks, wedges, and rail lifts, are no longer necessary due to the replacement of the mitered rail with straight rails, fixating the drawbridges in place. The drawbridges remain protected by track circuits interlocked with eastward and westward signals.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 5, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–14898 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0061]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May 29, 2013, the Commuter Rail Division of the Regional Transportation Authority (Metra) and its operating company, the Northeast Illinois Regional Commuter Railroad Corporation, have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances. FRA assigned the petition Docket Number FRA–2013–0061.

Metra seeks a waiver from the requirements of 49 CFR 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped.* Specifically, Metra seeks FRA's approval to operate nonequipped Metra switch engines over Metra's Rock Island District (RID) in cab signal territory. The RID automatic cab signal territory begins at Joliet, IL, Milepost (MP) 40.2, and ends at Blue Island, IL, MP 14.5.

Metra seeks this waiver for two reasons: (1) Because its switch engines are not equipped with cab signals and (2) because of the occasional use of mainline trackage, there is no economic justification for the installation of such cab signals. Metra's justification for the request is that the movement without cab signals can be made safely when the following proposed procedure is followed:

1. The train dispatcher or control operator is advised that the equipment is non-cab signal-equipped switch engines prior to entering main track.

2. The maximum authorized speed is 30 mph for non-cab signal-equipped switch engines.

3. An absolute block must be established in advance of the movement.

4. The equipment does not operate during the hours of peak commuter train service.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 5, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–14891 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0014]

Petition for a Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that Bombardier Transportation North America (BTNA) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 242, Qualification and Certification of Conductors, at two of its maintenance operations. BTNA's first operation serves the Southern California Regional Rail Authority with locations in Los Angeles, Lancaster, and San Bernardino, CA. BTNA's second operation serves the South Florida Regional Transportation Authority in Miami, FL. BTNA services and maintains the commuter train equipment for these commuter rail lines, and Transportation Certification Services, Inc. administers BTNA's operating crew certification programs. FRA assigned the petition Docket Number FRA–2013–0014.

The conductor certification regulations provide that every train or yard crew, as defined in 49 CFR 218.5, Definitions, are required to have a certified conductor as a member of the crew and, in the case of a single person train or yard crew, the regulation provides that the employee must be dual-certified as a locomotive engineer and a conductor.

In its petition, BTNA states that virtually all of the employees responsible for equipment movements at the above-referenced facilities are certified locomotive engineers pursuant to 49 CFR Part 240, Qualification and Certification of Locomotive Engineers. In addition to the locomotive engineer training, the employees receive additional training to cover ground-switching duties. BTNA states that the additional training required under 49 CFR Part 242 would not increase the level of safety at these facilities and would create a cost burden for it.

In its petition, BTNA also notes that 49 CFR 242.123, Monitoring operational

performance, requires that specific operating rule efficiency tests be performed on conductors in addition to the operational testing required under 49 CFR Part 240. Consequently, BTNA will conduct the operational testing required by 49 CFR 242.123 for all employees who are engaged in the movement of equipment at the above-referenced facilities.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery*: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 22, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–14893 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2001–9998]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 5, 2013, Farmrail System, Inc. (Farmrail) has petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223, Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA–2001–9998.

Specifically, Farmrail petitioned FRA to grant an extension of a waiver of compliance from 49 CFR 223.15, *Requirements for existing passenger cars.* Farmrail seeks this relief for three passenger cars, numbered FMRC 5627, FMRC 5478, and FMRC 5560. These cars are used in excursion service, on a limited seasonal basis, through a sparsely populated area on trackage owned by the Oklahoma Department of Transportation. The cars are former VIA Rail Canada equipment and have a double-pane combination of ¼-inch thick safety glass inside and plate glass outside. Farmrail states that there has been no breakage of the existing glazing, and it has continued to operate these cars in accordance with the conditions of the waiver granted in Docket Number FRA–2001–9998 without accident, incident, or any condition that has posed a safety hazard to passengers, employees, or the public. In addition, Farmrail states that the waiver should be extended because of the infrequent usage of the subject cars, the fact that they operate in excursion service, and the cost of installing FRA-compliant glazing.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov/.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 5, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–14892 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013 0074]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MISS ANDREA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 22, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0074. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MISS ANDREA is:

Intended Commercial Use Of Vessel: ''Fishing Charter''

Geographic Region: ''Ohio''

The complete application is given in DOT docket MARAD–2013–0074 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 17, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–14885 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013 0075]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ORCA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 22, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0075. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ORCA is:

Intended Commercial Use Of Vessel: ''commercial passenger dive tour boat''

Geographic Region: ''Hawaii''

The complete application is given in DOT docket MARAD–2013–0075 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 17, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–14890 Filed 6–20–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35741]

American Surface Lines, LLC—Acquisition and Operation Exemption—Mikrut Properties, LLLP

American Surface Lines, LLC (ASL), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by assignment from Mikrut Properties, LLLP (MP), and to operate as a common carrier, certain rail lines that comprise a total distance of 1.56 miles in Winona, Winona County, Minn.

The lines are described as follows: (a) 1.37 miles (7,215 feet) of rail line, comprised of seven tracks, extending from point of connection with the main line of Soo Line Railroad Company, d/b/a Canadian Pacific Railroad Company (CP) at or near Pelzer Street to a transloading facility owned and operated by MP; and (b) 0.19 miles of rail line, comprised of two nearby tracks of approximately 500 feet each, extending from point of connection with the main line of Union Pacific Railroad Company (UP) at or near 3rd Street to a transloading facility also owned and operated by MP. ASL states that there are no mileposts on the lines. ASL also states that there are no interchange commitments between ASL and MP.

According to ASL, the lines have been operated by MP as private tracks. ASL states that the MP tracks that connect to CP's line have been operated pursuant to a private siding agreement between CP and MP dated May 22, 2012. According to ASL, MP is assigning to ASL that agreement, and ASL will terminate the agreement and operate the tracks as common carrier tracks. ASL also explains that the MP tracks that connect to UP's line have been operated by MP pursuant to a lease from UP dated May 20, 2011. ASL states that MP is assigning to ASL that lease with UP's written consent.

The earliest the transaction can be consummated is July 6, 2013, the effective date of the exemption (30 days after the exemption was filed).

ASL certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 28, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35741, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 17, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–14770 Filed 6–20–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 290 (Sub-No. 5) (2013–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board approves the third quarter 2013 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2013 RCAF (Unadjusted) is 0.977. The third quarter 2013 RCAF (Adjusted) is 0.425. The third quarter 2013 RCAF–5 is 0.401.

DATES: *Effective Date:* July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: June 18, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–14876 Filed 6–20–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a currently approved information collection that is due for extension approval by the Office of Management and Budget. The Terrorism Risk Insurance Program Office within the Department of the Treasury is soliciting comments concerning the Record Keeping Requirements set forth in 31 CFR part 50, subpart F (Sec. 50.50–50.55).

DATES: Written comments must be received on or before August 20, 2013.

ADDRESSES: Submit comments by email to *triacomments@do.treas.gov* or by mail (if hard copy, preferably an original and two copies) to: Terrorism Risk Insurance Program, Public Comment Record, Suite 2100, Department of the Treasury, 1425 New York Ave. NW., Washington, DC 20220. Because paper mail in the Washington DC area may be subject to delay, it is recommended that comments be submitted electronically. All comments should be captioned with ''PRA Comments—Recoupment Procedures of the Terrorism Risk Insurance Act (TRIA)''. Please include your name, affiliation, address, email address and telephone number in your comment. Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library. To makes appointments, call (202) 622–0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to: Terrorism Risk Insurance Program Office at (202) 622–6770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

OMB Number: 1505–0197.

Title: Terrorism Risk Insurance Program: Recordkeeping Requirements for Insurers Compensated Under Terrorism Risk Insurance Program.

Abstract: Sections 103(a) and 104 of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297) (''Act'') (as extended by the Terrorism Risk Insurance Extension Act of 2005, Pub. L. 109–144 and the Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub. L. 110–160) authorize the Department of the Treasury to administer and implement the Terrorism Risk Insurance Program established by the Act. In 31 CFR part 50, subpart F (Sec. 50.50–50.55), Treasury established requirements and procedures for insurers that file claims for payment of the Federal share of compensation for insured losses resulting from a certified act of terrorism under the Act. Section 50.60 allows Treasury access to records of an insurer pertinent to amounts paid as the Federal share of compensation for insured losses in order to conduct investigations, confirmations and audits. Section 50.61 requires insurers to retain all records as are necessary to fully disclose all material matters pertaining to insured losses. This collection of information is the recordkeeping requirement in § 50.61.

Type of Review: Extension of a currently approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 8.3 hours.

Estimated Total Annual Burden Hours: 833 hours.

Request for Comments: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collections; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated June 17, 2013.

Jeffrey S. Bragg,

Director, Terrorism Risk Insurance Program.

[FR Doc. 2013–14835 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a currently approved information collection that is due for extension approval by the Office of Management and Budget. The Terrorism Risk Insurance Program Office within the Department of the Treasury is soliciting comments concerning the Record Keeping Requirements set forth in 31 CFR part 50, subpart I (Sec. 50.82).

DATES: Written comments must be received on or before August 20, 2013.

ADDRESSES: Submit comments by email to *triacomments@do.treas.gov* or by mail (if hard copy, preferably an original and two copies) to: Terrorism Risk Insurance Program, Public Comment Record, Suite 2100, Department of the Treasury, 1425 New York Ave. NW., Washington, DC 20220. Because paper mail in the Washington, DC area may be subject to delay, it is recommended that comments be submitted electronically. All comments should be captioned with ''PRA Comments—Recoupment Procedures of the Terrorism Risk Insurance Act (TRIA)''. Please include your name, affiliation, address, email address and telephone number in your comment. Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library. To makes appointments, call (202) 622–0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to: Terrorism Risk Insurance Program Office at (202) 622–6770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

OMB Number: 1505–0196.

Title: Terrorism Risk Insurance Program: Litigation Management-Information Collection Regarding Proposed Settlements.

Abstract: Section 103(a) and 104 of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297) (''TRIA'') authorize the Department of the Treasury to administer and implement the temporary Terrorism Risk Insurance Program established by the Act. Section 107 contains specific provisions designed to manage litigation arising out of or resulting from a certified act of terrorism. The Terrorism Risk Insurance Extension Act of 2005, Public Law 109–144, added section 107(a)(6) to TRIA, which provides that procedures and requirements established by the Secretary under 31 CFR 50.82, as in effect on the date of issuance of that section in final form [July 28, 2004], shall apply to any Federal cause of action described in section 107(a)(1). Section 50.82 of the regulations requires insurers to submit to Treasury for advance approval certain proposed settlements involving an insured loss, any part of the payment of which the insurer intends to submit as part of its claim for Federal payment under the Program. Section 50.83 of the regulations describes the form and content that insurers must submit to implement the settlement approval process prescribed by Section 50.82.

Type of Review: Extension of a currently approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 1,286.

Estimated Average Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 5141 hours.

Request for Comments.: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collections; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 17, 2013.

Jeffrey S. Bragg,

Director, Terrorism Risk Insurance Program.

[FR Doc. 2013–14829 Filed 6–20–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collections; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau; Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before August 20, 2013.

ADDRESSES: You may send comments to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- *U.S. mail:* 1310 G Street NW., Box 12, Washington, DC 20005;
- *Hand delivery/courier in lieu of mail:* 1310 G Street NW., Suite 200E, Washington, DC 20005;
- 202–453–2686 (facsimile); or
- *formcomments@ttb.gov* (email).

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment. If you submit your comment via facsimile, please send no more than five 8.5 x 11 inch pages in order to ensure that our equipment is not overburdened.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or telephone 202–453–1039, ext. 165.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following TTB surveys, forms, and recordkeeping requirements:

Title: Brewer's Notice Letterhead Applications and Notices Filed by Brewers.

OMB Control Number: 1513–0005.

TTB Form Number: 5130.10.

TTB Recordkeeping Number: 5130/2.

Abstract: The Internal Revenue Code requires brewers to file a notice of intent to operate a brewery. TTB F 5130.10 is similar to a permit and, when approved by TTB, is a brewer's authorization to operate. Letterhead applications and notices are necessary to identify brewery activities so that TTB may ensure that proposed operations do not jeopardize Federal revenues.

Current Actions: We are submitting this information collection as a revision. The total estimated number of burden hours has increased as a result of an increase in the estimated number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,974.

Estimated Total Annual Burden Hours: 14,870.

Title: Principal Place of Business on Beer Labels.

OMB Control Number: 1513–0085.

TTB Record Number: 5130/5.

Abstract: TTB regulations require the name and address of the brewer to appear on the labels of kegs, bottles, and cans of domestic beer. The regulations permit domestic brewers who operate more than one brewery to show their ''principal place of business'' as their address on such labels. The brewer may use this labeling option in lieu of showing the actual place of the beer's production or in lieu of listing all of the brewer's locations on the label.

Current Actions: We are submitting this information collection for extension purposes only. The information collection and estimated total annual burden hours are unchanged. The estimated number of respondents and estimated number of responses have changed, but those changes do not affect the total burden hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,974.

Estimated Total Annual Burden Hours: One (1).

Title: Marks on Equipment and Structures, and Marks, Brands, and Labels on Containers of Beer.

OMB Control Number: 1513–0086.

TTB Record Numbers: 5130/3 and 5130/4.

Abstract: Marks, signs, and calibrations are necessary on equipment and structures for identifying major equipment, for accurate determination of tank contents, and for the segregation of taxpaid and nontaxpaid beer. Marks, brands, and labels on containers of beer are necessary to inform consumers of container contents and to identify the brewer and place of production. TTB's marking and labeling requirement are activities that respondents perform in the normal course of business, so we are not placing any additional burden on the respondents.

Current Actions: We are submitting this information collection for extension purposes only. The information collection and estimated total annual burden hours are unchanged. The number of respondents and responses has changed, but this does not affect the burden hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,974.

Estimated Total Annual Burden Hours: One (1).

Title: Pay.gov User Agreement.

OMB Control Number: 1513–0117.

TTB Form Number: 5000.31.

Abstract: The Pay.gov User Agreement is used to identify, validate, approve, and register qualified users so they may submit electronic forms via the Pay.gov system.

Current Actions: We are submitting this information collection as a revision. The estimated number of responses and the estimated total annual burden hours have decreased because the number of respondents has decreased.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Responses: 2,126.

Estimated Total Annual Burden Hours: 177.17.

Title: Surveys for Permits Online (PONL), Formulas Online (FONL), and COLAs (Certificate of Label Approvals) Online.

OMB Control Number: 1513–0124.

TTB Form and Record Number: None.

Abstract: In an effort to improve customer service, TTB uses surveys to keep track of its customer service quality and progress, as well as to identify potential needs, problems, and opportunities for improvement. TTB customer service surveys have primarily been administered using telephone interviews, but TTB wishes to instead administer these surveys via email and its online systems. TTB has selected a few of the questions used in the current telephone surveys to create its email and online surveys, which results in a reduction of this information collection's estimated burden. The interviewees continue to be applicants for permits and current permittees, pursuant to the Federal Alcohol Administration Act, the Internal Revenue Code, and TTB regulations, but we are adding applicants for COLAs and formulas pursuant to the same. Responses are voluntary. TTB intends to administer the email surveys through Survey Monkey, which is a system used by other Federal Government agencies to conduct customer service surveys.

Current Actions: We are submitting this information collection as a revision. The information collections, the estimated number of responses, and the estimated total annual burden hours have changed because we have changed the amount of information being collected, and we have changed the method of collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Responses: 5,245.

Estimated Total Burden Hours: 856.

Title: Distilled Spirits Bond.

OMB Control Number: 1513–0125.

TTB Form Number: 5110.56.

Abstract: This form is used by Distilled Spirits Plants (DSPs) and Alcohol Fuel Plants to file bond coverage with TTB. Using this form, these plants may file coverage and/or withdraw coverage for one plant or multiple plants. DSPs may file this bond and include operations coverage for adjacent wine cellars. The bond may be secured through a surety company or it may be secured with collateral (cash, Treasury Bonds, or Treasury Notes). The bond protects the revenue assigned to distilled spirits on which excise tax has not been paid. Should the industry member fail to pay its tax liability, including any penalties and interest, TTB may obligate the funds used to secure the bond to satisfy the debt.

Current Actions: We are submitting this information collection as a revision. The estimated number of responses and the estimated total annual burden hours have increased as a result of an increase in the number of respondents.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit; Farms.

Estimated Number of Responses: 1,000.

Estimated Total Annual Burden Hours: 775.

Amy R. Greenberg,

Assistant Director, Regulations and Rulings Division.

[FR Doc. 2013–14913 Filed 6–20–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Lending Limits

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995.

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Lending Limits.'' The OCC is also giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before July 22, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0221, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0221, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You may request additional information from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the OCC has submitted the following request for renewal of a collection of information to OMB for review and clearance.

Title: Lending Limits—12 CFR 32.

OMB Control Number: 1557–0221.

Type of Review: Extension without change of a currently approved collection.

Description: Twelve CFR 32.7(a) provides special lending limits for 1–4 family residential real estate loans, small business loans, and small farm loans for eligible national banks and savings associations. National banks and savings associations that seek to use these special lending limits must apply to the OCC, under 12 CFR 32.7(b), and receive approval before using the special lending limits. The OCC needs the information in the application to evaluate whether a national bank or savings association is eligible to use the special lending limits and to ensure that the use of special lending limits will not jeopardize the safety and soundness of the bank or savings association.

Affected Public: Businesses or other for-profit.

Burden Estimates: Estimated Number of Respondents: 57.

Estimated Number of Responses: 57.

Estimated Burden per Response: 26 hours.

Estimated Annual Burden: 1,482 hours.

Frequency of Response: On occasion.

Comment: The OCC published a 60-day **Federal Register** notice on April 15, 2013 (78 FR 22365). No comments were received on the collection of information. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of the capital or start-up costs and the costs associated with the operation, maintenance, and acquisition of services necessary to provide the required information.

Dated: June 17, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–14766 Filed 6–20–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Identification of Entities Pursuant to the Iranian Transactions and Sanctions Regulations and Executive Order 13599

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 38 entities identified as the Government of Iran under the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (''ITSR''), and Executive Order 13599.

DATES: The identification made by the Director of OFAC of the entities identified in this notice, pursuant to the ITSR and Executive Order 13599, is effective June 4, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On February 5, 2012, the President issued Executive Order 13599, ''Blocking Property of the Government of Iran and Iranian Financial Institutions'' (the ''Order''). Section 1(a) of the Order blocks, with certain exceptions, all property and interests in property of the Government of Iran, including the Central Bank of Iran, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch.

Section 7(d) of the Order defines the term ''Government of Iran'' to mean the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran.

Section 560.211(a) of the ITSR implements Section 1(a) of the Order. Section 560.304 of the ITSR defines the term ''Government of Iran'' to include: ''(a) The state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran; (b) Any person owned or controlled, directly or indirectly, by the foregoing; and (c) Any person to the extent that such person is, or has been, since the effective date, acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and (d) Any other person determined by the Office of Foreign Assets Control to be included within [(a) through (c)].''

On June 4, 2013, the Director of OFAC identified 38 entities as meeting the definition of the Government of Iran pursuant to the Order and the ITSR.

The listing for these entities is as follows:

1. AMIN INVESTMENT BANK (a.k.a. AMINIB), No. 51 Ghobadiyan Street, Valiasr Street, Tehran 1968917173, Iran; Web site *http://www.aminib.com* [IRAN].
2. BEHSAZ KASHANE TEHRAN CONSTRUCTION CO. (a.k.a. BEHSAZ KASHANEH CO.), No. 40, East Street Journal, North Shiraz Street, Sadra Avenue, Tehran, Iran; Web site *http://www.behsazco.ir* [IRAN].
3. COMMERCIAL PARS OIL CO., 9th Floor, No. 346, Mirdamad Avenue, Tehran, Iran [IRAN].
4. CYLINDER SYSTEM L.T.D. (a.k.a. CILINDER SISTEM D.O.O.; a.k.a. CILINDER SISTEM D.O.O. ZA PROIZVODNJU I USLUGE), Dr. Mile Budaka 1, Slavonski Brod 35000, Croatia; 1 Mile Budaka, Slavonski Brod 35000, Croatia; Web site *http://www.csc-sb.hr*; Registration ID 050038884 (Croatia); Tax ID No. 27694384517 (Croatia) [IRAN].
5. EXECUTION OF IMAM KHOMEINI'S ORDER (a.k.a. EIKO; a.k.a. SETAD; a.k.a. SETAD EJRAEI EMAM; a.k.a. SETAD–E EJRAEI–E FARMAN–E HAZRAT–E EMAM; a.k.a. SETAD–E FARMAN–EJRAEI–YE EMAM), Khaled Stamboli St., Tehran, Iran [IRAN].

6. GHADIR INVESTMENT COMPANY, 341 West Mirdamad Boulevard, Tehran, Iran; P.O. Box 19696, Tehran, Iran; Web site *http://www.ghadir-invest.com* [IRAN].
7. GHAED BASSIR PETROCHEMICAL PRODUCTS COMPANY (a.k.a. GHAED BASSIR), No. 15, Palizvani (7th) Street, Gandhi (South) Avenue, Tehran 1517655711, Iran; Km 10 of Khomayen Road, Golpayegan, Iran; Web site *http://www.gbpc.net* [IRAN].
8. GOLDEN RESOURCES TRADING COMPANY L.L.C. (a.k.a. ''GRTC''), 9th Floor, Office No. 905, Khalid Al Attar Tower 1, Sheikh Zayed Road, After Crown Plaza Hotel, Al Wasl Area, Dubai, United Arab Emirates; Postal Box 34489, Dubai, United Arab Emirates; Postal Box 14358, Dubai, United Arab Emirates [IRAN].
9. HORMOZ OIL REFINING COMPANY, Next to the Current Bandar Abbas Refinery, Bandar Abbas City, Iran [IRAN].
10. IRAN & SHARGH COMPANY (a.k.a. IRAN AND EAST COMPANY; a.k.a. IRAN AND SHARGH COMPANY; a.k.a. IRANOSHARGH COMPANY; a.k.a. SHERKAT–E IRAN VA SHARGH), 827, North of Seyedkhandan Bridge, Shariati Street, P.O. Box 13185–1445, Tehran 16616, Iran; No. 41, Next to 23rd Alley, South Gandi St., Vanak Square, Tehran 15179, Iran; Web site *http://www.iranoshargh.com* [IRAN].
11. IRAN & SHARGH LEASING COMPANY (a.k.a. IRAN AND EAST LEASING COMPANY; a.k.a. IRAN AND SHARGH LEASING COMPANY; a.k.a. SHERKAT–E LIZING–E IRAN VA SHARGH), 1st Floor, No. 33, Shahid Atefi Alley, Opposite Mellat Park, Vali-e-Asr Street, Tehran 1967933759, Iran; Web site *http://www.isleasingco.com* [IRAN].
12. MARJAN PETROCHEMICAL COMPANY (a.k.a. MARJAN METHANOL COMPANY), Ground Floor, No. 39, Meftah/Garmsar West Alley, Shiraz (South) Street, Molla Sadra Avenue, Tehran, Iran; Post Office Box 19935–561, Tehran, Iran [IRAN].
13. MCS ENGINEERING (a.k.a. EFFICIENT PROVIDER SERVICES GMBH), Karlstrasse 21, Dinslaken, Nordrhein-Westfalen 46535, Germany [IRAN].
14. MCS INTERNATIONAL GMBH (a.k.a. MANNESMAN CYLINDER SYSTEMS; a.k.a. MCS TECHNOLOGIES GMBH), Karlstrasse 23–25, Dinslaken, Nordrhein-Westfalen 46535, Germany; Web site *http://www.mcs-tch.com* [IRAN].
15. MELLAT INSURANCE COMPANY, No. 48, Haghani Street, Vanak Square, Before Jahan-Kodak Cross, Tehran 1517973913, Iran; No. 40, Shahid Haghani Express Way, Vanak Square, Tehran, Iran; No. 9, Niloofar Street, Sharabyani Avenue, Taavon Boulevard, Shahr-e-Ziba, Tehran, Iran; 72 Hillview Court, Woking, Surrey GU22 7QW, United Kingdom; No. 697 Saeeidi Alley, Crossroads College, Enghelab St., Tehran, Iran; Web site *http://www.mellatinsurance.com* [IRAN].
16. MODABER (a.k.a. MODABER INVESTMENT COMPANY; a.k.a. TADBIR INDUSTRIAL HOLDING COMPANY) [IRAN].
17. OIL INDUSTRY INVESTMENT COMPANY (a.k.a. ''O.I.I.C.''), No. 83, Sepahbod Gharani Street, Tehran, Iran; Web site *http://www.oiic-ir.com* [IRAN].
18. OMID REY CIVIL & CONSTRUCTION COMPANY (a.k.a. OMID DEVELOPMENT AND CONSTRUCTION; a.k.a. OMID REY CIVIL AND CONSTRUCTION COMPANY; a.k.a. OMID REY RENOVATION AND DEVELOPMENT CO.); Web site *http://www.omidrey.com* [IRAN].
19. ONE CLASS PROPERTIES (PTY) LTD. (a.k.a. ONE CLASS INCORPORATED), Cape Town, South Africa [IRAN].
20. ONE VISION INVESTMENTS 5 (PTY) LTD. (a.k.a. ONE VISION 5), 3rd Floor, Tygervalley Chambers, Bellville, Cape Town 7530, South Africa; Canal Walk, P.O. Box 17, Century City, Milnerton 7446, South Africa; Registration ID 2002/022757/07 (South Africa) [IRAN].
21. PARDIS INVESTMENT COMPANY (a.k.a. SHERKAT–E SARMAYEGOZARI–E PARDIS), Iran; Unit D4 and C4, 4th Floor, Building 29 Africa, Corner of 25th Street, Africa Boulevard, Tehran, Iran [IRAN].
22. PARS MCS (a.k.a. PARS MCS CO.; a.k.a. PARS MCS COMPANY), 2nd Floor, No. 4, Sasan Dead End, Afriqa Avenue, After Esfandiar, Crossroads, Tehran, Iran; No. 5 Sasan Alley, Atefi Sharghi St., Afrigha Boulevard, Tehran, Iran; Oshtorjan Industrial Zone, Zob-e Ahan Highway, Isafahan, Iran; Web site *http://www.parsmcs.com* [IRAN].
23. PARS OIL CO. (a.k.a. PARS OIL; a.k.a. SHERKAT NAFT PARS SAHAMI AAM), Iran; No. 346, Pars Oil Company Building, Modarres Highway, East Mirdamad Boulevard, Tehran 1549944511, Iran; Postal Box 14155–1473, Tehran 159944511, Iran; Web site *http://www.parsoilco.com* [IRAN].
24. PERSIA OIL & GAS INDUSTRY DEVELOPMENT CO. (a.k.a. PERSIA OIL AND GAS INDUSTRY DEVELOPMENT CO.; a.k.a. TOSE SANAT–E NAFT VA GAS PERSIA), 7th Floor, No. 346, Mirdamad Avenue, Tehran, Iran; Ground Floor, No. 14, Saba Street, Africa Boulevard, Tehran, Iran; Web site *http://www.pogidc.com* [IRAN].
25. POLYNAR COMPANY, No. 58, St. 14, Qanbarzadeh Avenue, Resalat Highway, Tehran, Iran; Web site *http://www.polynar.com* [IRAN].
26. REY INVESTMENT COMPANY, 2nd and 3rd Floors, No. 14, Saba Boulevard, After Esfandiar Crossroad, Africa Boulevard, Tehran 1918973657, Iran; Web site *http://www.rey-co.com* [IRAN].
27. REY NIRU ENGINEERING COMPANY (a.k.a. REY NIROO ENGINEERING COMPANY); Web site *http://www.reyniroo.com* [IRAN].
28. REYCO GMBH. (a.k.a. REYCO GMBH GERMANY), Karlstrasse 19, Dinslaken, Nordrhein-Westfalen 46535, Germany [IRAN].
29. RISHMAK PRODUCTIVE & EXPORTS COMPANY (a.k.a. RISHMAK COMPANY; a.k.a. RISHMAK EXPORT AND MANUFACTURING P.J.S.; a.k.a. RISHMAK PRODUCTION AND EXPORT COMPANY; a.k.a. RISHMAK PRODUCTIVE AND EXPORTS COMPANY; a.k.a. SHERKAT–E TOLID VA SADERAT–E RISHMAK), Rishmak Cross Rd., 3rd Km. of Amir Kabir Road, Shiraz 71365, Iran [IRAN].
30. ROYAL ARYA CO. (a.k.a. ARIA ROYAL CONSTRUCTION COMPANY), Iran [IRAN].
31. SADAF PETROCHEMICAL ASSALUYEH COMPANY (a.k.a. SADAF ASALUYEH CO.; a.k.a. SADAF CHEMICAL ASALUYEH COMPANY; a.k.a. SADAF PETROCHEMICAL ASSALUYEH INVESTMENT SERVICE), Assaluyeh, Iran; South Pars Special Economy/Energy Zone, Iran [IRAN].
32. TADBIR BROKERAGE COMPANY (a.k.a. SHERKAT–E KARGOZARI–E TADBIRGARAN–E FARDA; a.k.a. TADBIRGARAN FARDA BROKERAGE COMPANY; a.k.a. TADBIRGARAN–E FARDA BROKERAGE COMPANY; a.k.a. TADBIRGARANE FARDA MERCANTILE EXCHANGE CO.), Unit C2, 2nd Floor, Building No.

29, Corner of 25th Street, After Jahan Koudak, Cross Road Africa Street, Tehran 15179, Iran; Web site *http://www.tadbirbroker.com* [IRAN].

33. TADBIR CONSTRUCTION DEVELOPMENT COMPANY (a.k.a. GORUH–E TOSE–E SAKHTEMAN–E TADBIR; a.k.a. TADBIR BUILDING EXPANSION GROUP; a.k.a. TADBIR HOUSING DEVELOPMENT GROUP), Block 1, Mehr Passage, 4th Street, Iran Zamin Boulevard, Shahrak Qods, Tehran, Iran [IRAN].
34. TADBIR ECONOMIC DEVELOPMENT GROUP (a.k.a. TADBIR GROUP), 16 Avenue Bucharest, Tehran, Iran [IRAN].
35. TADBIR ENERGY DEVELOPMENT GROUP CO., 6th Floor, Mirdamad Avenue, No. 346, Tehran, Iran; Web site *http://www.tadbirenergy.com* [IRAN].
36. TADBIR INVESTMENT COMPANY, Tehran, Iran [IRAN].
37. TOSEE EQTESAD AYANDEHSAZAN COMPANY (a.k.a. TEACO; a.k.a. TOSEE EGHTESAD AYANDEHSAZAN COMPANY), 39 Gandhi Avenue, Tehran 1517883115, Iran [IRAN].
38. ZARIN RAFSANJAN CEMENT COMPANY (a.k.a. RAFSANJAN CEMENT COMPANY; a.k.a. ZARRIN RAFSANJAN CEMENT COMPANY), 2nd Floor, No. 67, North Sindokht Street, West Dr. Fatemi Avenue, Tehran 1411953943, Iran; Web site *http://www.zarrincement.com* [IRAN].

Dated: June 4, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–14828 Filed 6–20–13; 8:45 am]

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Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulation; Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2013–0076; Sequence 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–67; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–67. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005–67 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

LIST OF RULES IN FAC 2005–67

Item	Subject	FAR Case	Analyst
I	Contractors Performing Private Security Functions Outside the United States	2011–029	Jackson.
II	Contracting Officer's Representative	2013–004	Jackson.
III	System for Award Management Name Change, Phase 1 Implementation	2012–033	Glover.
IV	Interagency Acquisitions: Compliance by Nondefense Agencies with Defense Procurement Requirements.	2012–010	Corrigan.
V	Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations (Interim).	2013–005	Petrusek.
VI	Price Analysis Techniques	2012–018	Chambers.
VII	Contracting with Women-owned Small Business Concerns (Interim)	2013–010	Morgan.
VIII	Deletion of Report to Congress on Foreign-Manufactured Products	2013–008	Davis.
IX	Free Trade Agreement (FTA)—Panama	2012–027	Davis.
X	Updated Postretirement Benefit (PRB) References	2011–019	Chambers.
XI	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–67 amends the FAR as specified below:

Item I—Contractors Performing Private Security Functions Outside the United States (FAR Case 2011–029)

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement Governmentwide requirements contained in section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181), as amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417) and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383). See 10 U.S.C. 2302 Note. These statutes establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

Item II—Contracting Officer's Representative (FAR Case 2013–004)

This final rule amends the FAR to improve contract surveillance by clarifying the contracting officer's representative (COR) responsibilities in FAR 1.602–2(d). In addition, a corresponding change is also made at FAR 7.104(e). This case originated from a Department of Defense (DoD) Panel on Contracting Integrity recommendation. The DoD Panel on Contracting Integrity, an internal DoD panel, consists of senior-level DoD officials from across DoD working to review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur, and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. In order to improve the contracting environment, this rule provides additional explanation in the FAR to ensure that CORs understand their duties and responsibilities to survey contractor performance. This final rule is not required to be published for public comment because it only involves internal Government procedures regarding the appointment of CORs and the clarification of COR responsibilities, and has neither a significant effect beyond the internal operation procedures of the agency issuing the policy, regulation, procedure or form, nor has a significant cost or administrative impact on contractors or offerors.

Item III—System for Award Management Name Change, Phase 1 Implementation (FAR Case 2012–033)

This final rule amends the FAR by updating references and names to conform to the System for Award Management (SAM) designation. The SAM is a Federal Government owned and operated free Web site that consolidates the capabilities in certain legacy systems that are used by Federal officials in the procurement and awards process. This rule incorporates language that will transition the Central Contractor Registration (CCR) database, the Excluded Parties List System (EPLS), and the Online Representations and Certifications Application (ORCA) to the SAM designation. This final rule also makes a number of minor additional conforming changes, such as updates to definitions.

Item IV—Interagency Acquisitions: Compliance by Nondefense Agencies With Defense Procurement Requirements (FAR Case 2012–010)

This final rule adopts with minor changes an interim rule published in the **Federal Register** at 77 FR 69720 on November 20, 2012. The interim rule amended the FAR to implement section 801 of Pub. L. 110–181, as amended (10 U.S.C. 2304 Note). Section 801 requires compliance certifications by nondefense agencies that purchase on behalf of the Department of Defense (DoD), and clarifies which DoD laws and regulations apply. The agencies must comply with new FAR subpart 17.7, in addition to complying with FAR subpart 17.5. To provide clarification for small business and contracting officers, existing policy for small business goal credit for assisted acquisitions was added by the interim rule to section FAR 4.603(c).

Item V—Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations (FAR Case 2013–005) (Interim)

This interim rule amends the FAR to address concerns raised in an opinion from the U.S. Department of Justice Office of Legal Counsel that determined the Anti-Deficiency Act is violated when a Government contracting officer or other employee with the authority to bind the Government agrees, without statutory authorization or other exception, to an open-ended, unrestricted indemnification clause. This rule clarifies for the public that an End User License Agreement (EULA), Terms of Service (TOS), or similar agreement, containing an indemnification provision, is unenforceable and nonbinding against the Government and Government-authorized end-users. The rule contains a new clause that applies to all solicitations and contracts and automatically applies to micro-purchases, including those made with the Governmentwide purchase card.

Item VI—Price Analysis Techniques (FAR Case 2012–018)

This final rule amends the FAR to clarify a reference used in FAR 15.404–1(b)(2)(i). FAR 15.404–1(b)(2) delineates the various price analysis techniques (to ensure a fair and reasonable price) with 15.404–1(b)(2)(i) being the comparison of proposed prices received from multiple offerors in response to a solicitation. The current reference in this section (FAR 15.403–1(c)(1)) was too broad; thus, this final rule changes this reference to 15.403–1(c)(1)(i), which precisely aligns the price analysis technique of comparing proposed prices in 15.404–1(b)(2)(i) with the adequate price competition standard (for exceptions from certified cost or pricing data requirements) of comparing proposed prices from multiple offerors. Small businesses are not impacted by this final rule because this rule merely clarifies the reference, changing it to cite FAR 15.403–1(c)(1)(i) (rather than the more generalized 15.403–1(c)(1)) at 15.404–1(b)(2)(i), which describes the use of the price analysis technique of comparing proposed prices from multiple offerors in order to establish a fair and reasonable price.

Item VII—Contracting With Women-Owned Small Business Concerns (FAR Case 2013–010) (Interim)

This interim rule amends FAR 19.1505 to remove the dollar limitation for set-asides for economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the Women-owned Small Business (WOSB) Program. This change implements section 1697 of the NDAA for FY 2013, Public Law 112–239, which amended section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

As a result, contracting officers may set aside acquisitions for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program at any dollar level above the micro-purchase threshold, provided the other requirements for a set-aside under the WOSB Program are met.

Item VIII—Deletion of Report to Congress on Foreign-Manufactured Products (FAR Case 2013–008)

This final rule amends the FAR to eliminate an obsolete Congressional reporting requirement imposed by the United States Troops Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (41 U.S.C. 8302(b)(1)).

This Act required these reports to Congress for Fiscal Year 2007 through Fiscal Year 2011 on acquisitions of end products manufactured outside the United States. This report to Congress is no longer required but the collection of the data in Federal Procurement Data System is still required (see FAR 52.225–18, Place of Manufacture). This final rule only affects the internal operating procedures of the Government.

Item IX—Free Trade Agreement (FTA)—Panama (FAR Case 2012–027)

This final rule adopts without change an interim rule published November 20, 2012, which implemented a new Free Trade Agreement with Panama (see the United States—Panama Trade Promotion Agreement Implementation Act (Pub. L. 112–43) (19 U.S.C. 3805 note)).

This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Panama. This final rule is not expected to have a significant economic impact on a substantial number of small entities.

Item X—Updated Postretirement Benefit (PRB) References (FAR Case 2011–019)

This final rule amends FAR 31.205–6(o)(2)(iii)(A)(*1*) to remove references to paragraphs 110, 112, and 113 of the now superseded Financial Accounting Standard (FAS) 106, which were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of generally accepted accounting principles (GAAP) and replaces them with explicit criteria that are their functional equivalent. The FAR referenced GAAP to provide criteria for determining the allowability of the transition obligation, when converting from pay-as-you-go accounting for postretirement benefits (PRBs) to an accrual method of accounting for the purposes of Government contract cost accounting.

This final rule will have a minimal economic impact on small businesses because it does not change the FAR substantively.

Item XI—Technical Amendments

Editorial changes are made at FAR 8.703, 8.714, 52.204–8, and 52.204–10.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–14603 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 25, and 52

[FAC 2005–67; FAR Case 2011–029; Item I; Docket 2011–0029, Sequence 1]

RIN 9000–AM20

Federal Acquisition Regulation; Contractors Performing Private Security Functions Outside the United States

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement Governmentwide requirements in National Defense Authorization Acts that establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2011–029.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 77 FR 43039 on July 23, 2012, to implement section 862, as amended, of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181). Section 862, entitled ''Contractors Performing Private Security Functions in Areas of Combat Operations or other Significant Military Operations,'' was amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417, enacted October 14, 2008) and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383, enacted January 7, 2011). See 10 U.S.C. 2302 Note. The statute required (1) the establishment of Governmentwide policies and (2) FAR coverage implementing the Governmentwide policies specified in the statutes and the resulting Governmentwide policy document.

The proposed FAR rule set forth the applicability, pertinent definitions, underlying policy, and a clause to implement minimum processes and requirements for personnel performing private security functions in designated areas outside the United States (*i.e.,* in combat operations, during certain contingency operations, or in an area of other significant military operations as appropriately designated). Four respondents submitted comments on the proposed rule.

II. Determinations

The Federal Acquisition Regulatory (FAR) Council has made the following determinations with respect to the rule's applicability of section 862 of the NDAA for FY 2008 (Pub. L. 110–181), as amended, entitled ''Contractors Performing Private Security Functions in Areas of Combat Operations or other Significant Military Operations,'' to contracts in amounts not greater than the simplified acquisition threshold (SAT), contracts for the acquisition of commercial items, and contracts for the acquisition of commercially available off-the-shelf (COTS) items.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to contracts or subcontracts in amounts not greater than the SAT. It is intended to limit the applicability of laws to acquisitions that are not greater than the SAT. However, section 1905 provides that contracts or subcontracts at or below the SAT will not be exempt from a provision of law if it contains criminal or civil penalties; specifically refers to 41 U.S.C. 1905 and states that the law applies to contracts and subcontracts in amounts not greater than the SAT; or if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the SAT from the provision of law.

The requirements of section 862, as amended, should apply to all prime contracts and subcontracts regardless of dollar value because the Act requires a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions to be inserted into every covered contract. A ''covered contract'' is defined by section 864 of the NDAA for FY 2008 as ''(A) a contract of a Federal agency for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; (B) a subcontract at any tier under such a contract; or (C) a task order or delivery order issued under such a contract or subcontract.'' Since the NDAA specifically defines which contracts are covered, it is not in the best interest of the Federal Government to waive the applicability of these requirements to contracts in amounts not greater than the SAT because it would exclude a significant number of acquisitions and not fully meet the intent of the Act.

B. Applicability to Contracts for the Acquisition of Commercial Items

41 U.S.C. 1906 governs the applicability of laws to the acquisition of commercial items. It is intended to limit the applicability of laws to the acquisition of commercial items. However, section 1906 provides that the acquisition of commercial items will not be exempt from a provision of law if it contains criminal or civil penalties; specifically refers to 41 U.S.C. 1906 and states that the law applies to the acquisition of commercial items; or if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt the acquisition of commercial items from the provision of law.

The requirements of section 862, as amended, should apply to all prime contracts and subcontracts because the Act requires a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions to be inserted into every covered contract. A ''covered contract'' is defined by section 864 of the NDAA for FY 2008 as ''(A) a contract of a Federal agency for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; (B) a subcontract at any tier under such a contract; or (C) a task order or delivery order issued under such a contract or subcontract.'' Since the NDAA specifically defines which contracts are covered, it is not in the best interest of the Federal Government to waive the applicability of these requirements to the acquisition of commercial items because it would exclude a significant number of acquisitions and not fully meet the intent of the Act.

C. Applicability to Contracts for the Acquisition of COTS Items

41 U.S.C. 1907 governs the applicability of laws to the acquisition of commercially available off-the-shelf (COTS) items. It is intended to limit the applicability of laws to the acquisition of COTS items. However, 41 U.S.C. 1907

provides that the acquisition of COTS items will not be exempt from a provision of law if it contains criminal or civil penalties; specifically refers to 41 U.S.C. 1907 and states that the law applies to the acquisition of COTS items; concerns authorities or responsibilities under the Small Business Act (15 U.S.C. 644) or bid protest procedures developed under the authority of 31 U.S.C. 3551 *et seq.;* 10 U.S.C. 2305(e) and (f); or 41 U.S.C. 3706 and 3707; or if the Administrator for Federal Procurement Policy makes a written determination that it would not be in the best interest of the Federal Government to exempt the acquisition of COTS items from the provision of law.

The requirements of section 862, as amended, should apply to all prime contracts and subcontracts because the Act requires a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions to be inserted into every covered contract. A ''covered contract'' is defined by section 864 of the NDAA for FY 2008 as ''(A) a contract of a Federal agency for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; (B) a subcontract at any tier under such a contract; or (C) a task order or delivery order issued under such a contract or subcontract.'' Since the NDAA specifically defines which contracts are covered, it is not in the best interest of the Federal Government to waive the applicability of these requirements to the acquisition of COTS items because it would exclude a significant number of acquisitions and not fully meet the intent of the Act.

III. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

• An ''Applicability'' paragraph was added to the contract clause at FAR 52.225–26 in order to address situations where contract performance was to take place partially in a designated area and partially in a different, non-designated area.

• The applicability statement at FAR 25.302–3(a)(3) was revised to match the clause prescription at FAR 25.302–6(a)(1) so that the agreement of the Secretary of State is required for designations of an area of ''other significant military operations'' for purposes of applicability of this rule to a DoD acquisition.

B. Analysis of Public Comments

1. Support for the Rule

Comment: One respondent expressed support for the rule, stating that the proposed amendment is crucial to our national security. The respondent concluded that the actions of private security contractors have far-reaching impacts on our international reputation and the success of worldwide peacekeeping and reconstruction efforts. The respondent stated that the record-keeping requirements of this rule will curb the illicit trade of weapons and other defense articles and increase the emphasis on qualification, training, and screening to improve the professionalism of security contractor personnel.

Response: Noted.

2. Applicability

Comment: One respondent suggested that FAR 25.302–2(a) and (b) (now 25.302–3(a) and (b)) should be amended to delete the phrase ''for supplies and services'' and refer only to ''contracts.'' The respondent made a related comment at FAR 25.302–2(d).

Response: Concur. This change removes the likelihood of confusion as to whether requirements such as construction, reconstruction, commodities, or utilities are included. While all these categories could be considered either supplies or services, it removes the possibility of misinterpretation.

3. Clause Prescription

Comment: One respondent recommended that the clause prescription at 25.302–6(a)(1) be changed by deleting ''of services and/or delivery of supplies,'' and that a similar change be made at (a)(2). The respondent also recommends substituting ''in, or with significant likelihood of performance in, an area of''.

Response: The Councils agree to the recommended deletion at 25.302–6(a)(1) and (a)(2) in order to remove the likelihood of confusion as to whether requirements such as construction, reconstruction, commodities, or utilities are included. The Councils do not agree with requiring the contracting officer to insert the clause when performance in a designated area is only likely. This would require offerors to account for this in proposals and unnecessarily raise proposed prices. Instead, the contracting officer should modify the solicitation or contract to add the clause if requirements change so that performance is needed in a designated area.

The Councils also are clarifying the clause to show that, if the contract is performed both in a designated area and in an area that is not designated, the clause only applies to the designated area. A new paragraph (b) is added to the clause that specifies that the clause applies to (1) DoD contracts to be performed in an area of (i) contingency operations outside the United States, (ii) combat operations, as designated by the Secretary of Defense, or (iii) other significant military operations as designated by the Secretary of Defense, only upon agreement of the Secretary of Defense and the Secretary of State; and (2) contracts issued by a non-DoD agency for performance in an area of (i) combat operations, as designated by the Secretary of Defense, or (ii) other significant military operations, as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

4. Accounting for Weapons

Comment: A respondent proposed to modify the contractor requirements at paragraph (b)(1)(ii) of the clause at FAR 52.225–26, Contractors Performing Private Security Functions Outside the United States, to add to the current requirement to authorize and account for weapons, additional requirements to authorize and account for ''International Trafficking in Arms (ITAR)-restricted items, if issued, and items designated as Sensitive Items by the Commander or Chief of Mission.'' The respondent stated that accounting solely for weapons was insufficient to protect deployed military and civilian personnel from the dangers of sensitive equipment getting into the hands of enemy combatants due to poor contractor accountability. As an example, the respondent noted that, if enemy combatants or terrorists secure uniforms, it will be much harder to identify them.

Response: This FAR rule implements statutory requirements that are unique to contractors performing private security functions. While the concerns cited by the respondent may be valid, they are not unique to the performance of private security functions and are therefore outside the scope of this rule. Further, other laws and policies cover accountability for the items cited by the respondent. For example, an ITAR

license includes accountability requirements for the specific items covered by the license.

5. Clarifications for **Federal Register** Notice

Comment: One respondent recommended that the preamble of the final rule clarify that contractors do not waive any applicable privileges in order to be found to have sufficiently cooperated in a Government-authorized investigation, and that contractors should not be penalized in past performance evaluations or responsibility evaluations if the contractor provides access to an employee but the employee chooses not to cooperate.

Response: The Councils agree with these comments, on how the actions of contractors and their employees would be handled under United States law. These are similar to principles found in FAR 52.203–13, Contractor Code of Business Ethics and Conduct, in the definition of ''full cooperation''. The Councils however note that foreign country local law is also involved and cannot be changed by this rule.

6. Editorial Comments

Comment: A respondent recommended deleting the term ''subpart'' at FAR 25.302, as this is a section, not a subpart, of the FAR.

Response: This recommended change is made in the final rule.

Comment: A respondent noted that the applicability section of FAR 25.302 had been erroneously placed at 25.302–2, prior to the definitions section (at FAR 25.302–3). The FAR drafting convention is to place the definitions after the ''scope'' portion but prior to the ''applicability'' section of a rule.

Response: FAR section 25.302 is reordered in the final rule as noted by the respondent.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The case implements sections of the National Defense Authorization Act for Fiscal Year 2008, as amended by subsequent NDAAs (see 10 U.S.C. 2302 Note), that establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

No comments on the initial regulatory flexibility analysis were received from the Chief Counsel for Advocacy of the Small Business Administration or the public in response to the publication of the proposed rule.

The impact on small business entities will be minor, for several reasons. Not all contracts involve the performance of private security functions, in which case the clause does not apply. In these situations, therefore, there is no impact on small business entities. Also, most contracts that require the performance of private security functions in the areas of Iraq and Afghanistan are being awarded to firms based in those countries. Most contracts for these services have not been awarded to small businesses because they are awarded and performed overseas. In the few cases in which a contractor is both a U.S. small business and is performing private security functions, the costs of compliance will be included in the proposed and negotiated subcontract cost. Further, the publication of 32 CFR part 159 provides consistency in reporting requirements and accountability for private security personnel and their weapons (as required by the law). This increased clarity serves to relieve the burdens on small businesses.

DoD contractors and subcontractors currently are required by another clause to register equipment and personnel using the DoD's Synchronized Predeployment and Operational Tracker (SPOT) System. The associated paperwork burden was previously approved for DoD under OMB control number 0704–0460, Synchronized Predeployment and Operational Tracker (SPOT) System. There is, at present, no reporting system that has been developed by non-DoD agencies. An information collection request for non-DoD agencies was submitted to the Office of Management and Budget with the proposed rule. The impact of this rule is limited to those few firms that are both a U.S. small business and are performing private security functions. The reporting burden has been limited to those items specifically required by law, and the use of the automated SPOT system enables easy and quick updates as necessary.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. DoD's information collection has been approved previously under OMB Control Number 0704–0460, Synchronized Predeployment and Operation Tracker (SPOT) System. However, SPOT does not include reporting of specified incidents in which personnel performing private security functions under a contract are involved (see paragraph (c)(1)(iv) of the clause at FAR 52.225–26). In addition, there is a new information collection requirement for non-DoD agencies and incident reporting for DOD agencies that was previously submitted to the Office of Management and Budget and approved under OMB Control Number 9000–0184, Contractors Performing Private Security Functions Outside the United States.

List of Subjects in 48 CFR Parts 1, 25, and 52

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 25 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segment ''25.302'' and its corresponding OMB Control No. ''9000–0184''.

PART 25—FOREIGN ACQUISITION

■ 3. Add sections 25.302 through 25.302–6 to subpart 25.3 to read as follows:

25.302 Contractors performing private security functions outside the United States.

25.302–1 Scope.

This section prescribes policy for implementing section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub.

L. 110–181), as amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417), and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383) (see 10 U.S.C. 2302 Note).

25.302–2 Definitions.

As used in this section—

Area of combat operations means an area of operations designated as such by the Secretary of Defense when enhanced coordination of contractors performing private security functions working for Government agencies is required.

Other significant military operations means activities, other than combat operations, as part of a contingency operation outside the United States that is carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force (see 25.302–3(b)(2)).

Private security functions means activities engaged in by a contractor, as follows—

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party; or

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties in accordance with the terms of the contract.

25.302–3 Applicability.

(a) *DoD:* This section applies to acquisitions by Department of Defense components under a contract that requires performance—

(1) During contingency operations outside the United States;

(2) In an area of combat operations as designated by the Secretary of Defense; or

(3) In an area of other significant military operations as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(b) *Non-DoD agencies:* This section applies to acquisitions by non-DoD agencies under a contract that requires performance—

(1) In an area of combat operations as designated by the Secretary of Defense; or

(2) In an area of other significant military operations as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(c) These designations can be found at *http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_other_significant_military_operations.html* and *http://www.acq.osd.mil/dpap/pacc/cc/designated_areas_of_combat_operations.html.*

(d) When the applicability requirements of this subsection are met, contractors and subcontractors must comply with 32 CFR part 159, whether the contract is for the performance of private security functions as a primary deliverable or the provision of private security functions is ancillary to the stated deliverables.

(e) The requirements of section 25.302 shall not apply to—

(1) Contracts entered into by elements of the intelligence community in support of intelligence activities; or

(2) Temporary arrangements entered into on a non-DoD contract for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company. These temporary arrangements must still comply with local law.

25.302–4 Policy.

(a) *General.* (1) The policy, responsibilities, procedures, accountability, training, equipping, and conduct of personnel performing private security functions in designated areas are addressed at 32 CFR part 159, entitled ''Private Security Contractors (PSCs) Operating in Contingency Operations, Combat Operations, or Other Significant Military Operations.'' Contractor responsibilities include ensuring that employees are aware of, and comply with, relevant orders, directives, and instructions; keeping appropriate personnel records; accounting for weapons; registering and identifying armored vehicles, helicopters, and other military vehicles; and reporting specified incidents in which personnel performing private security functions under a contract are involved.

(2) In addition, contractors are required to cooperate with any Government-authorized investigation into incidents reported pursuant to paragraph (c)(3) of the clause at 52.225–26, Contractors Performing Private Security Functions Outside the United States, by providing access to employees performing private security functions and relevant information in the possession of the contractor regarding the incident concerned.

(b) *Implementing guidance.* In accordance with 32 CFR part 159—

(1) Geographic combatant commanders will provide DoD contractors performing private security functions with guidance and procedures for the operational environment in their area of responsibility; and

(2) In a designated area of combat operations, or areas of other significant military operations, as designated by the Secretary of Defense and only upon agreement of the Secretary of Defense and the Secretary of State, the relevant Chief of Mission will provide implementing instructions for non-DoD contractors performing private security functions and their personnel consistent with the standards set forth by the geographic combatant commander. In accordance with 32 CFR 159.4(c), the Chief of Mission has the option of instructing non-DoD contractors performing private security functions and their personnel to follow the guidance and procedures of the geographic combatant commander and/or a sub-unified commander or joint force commander where specifically authorized by the combatant commander to do so and notice of that authorization is provided to non-DoD agencies.

25.302–5 Remedies.

(a) In addition to other remedies available to the Government—

(1) The contracting officer may direct the contractor, at its own expense, to remove and replace any contractor or subcontractor personnel performing private security functions who fail to comply with or violate applicable requirements. Such action may be taken at the Government's discretion without prejudice to its rights under any other contract provision, *e.g.,* termination for default;

(2) The contracting officer shall include the contractor's failure to comply with the requirements of this section in appropriate databases of past performance and consider any such failure in any responsibility determination or evaluation of past performance; and

(3) In the case of award-fee contracts, the contracting officer shall consider a contractor's failure to comply with the requirements of this subsection in the evaluation of the contractor's performance during the relevant evaluation period, and may treat such failure as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period.

(b) If the performance failures are severe, prolonged, or repeated, the contracting officer shall refer the matter to the appropriate suspending and debarring official.

25.302–6 Contract clause.

(a) Use the clause at 52.225–26, Contractors Performing Private Security Functions Outside the United States, in

the following solicitations and contracts:

(1) A DoD contract for performance in an area of—

(i) Contingency operations outside the United States;

(ii) Combat operations, as designated by the Secretary of Defense; or

(iii) Other significant military operations, as designated by the Secretary of Defense only upon agreement of the Secretary of Defense and the Secretary of State.

(2) A contract of a non-DoD agency for performance in an area of—

(i) Combat operations, as designated by the Secretary of Defense; or

(ii) Other significant military operations, as designated by the Secretary of Defense and only upon agreement of the Secretary of Defense and the Secretary of State.

(b) The clause is not required to be used for—

(1) Contracts entered into by elements of the intelligence community in support of intelligence activities; or

(2) Temporary arrangements entered into by non-DoD contractors for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (b)(43) through (b)(51) as paragraphs (b)(44) through (b)(52), respectively;

■ c. Adding a new paragraph (b)(43);

■ d. Redesignating paragraphs (e)(1)(xiii) and (e)(1)(xiv) as paragraphs (e)(1)(xiv) and (e)(1)(xv), respectively; and

■ e. Adding a new paragraph (e)(1)(xiii).

The revised and added text reads as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Jul 2013)

* * * * *

(b) * * *

___(43) 52.225–26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

(e)(1) * * *

(i) * * *

(xiii) 52.225–26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

■ 5. Add section 52.225–26 to read as follows:

52.225–26 Contractors Performing Private Security Functions Outside the United States.

As prescribed in 25.302–6 insert the following clause:

Contractors Performing Private Security Functions Outside the United States (Jul 2013)

(a) *Definition.*

Private security functions means activities engaged in by a Contractor, as follows:

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the Contractor or subcontractor, or a third party.

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties in accordance with the terms of this contract.

(b) *Applicability.* If this contract is performed both in a designated area and in an area that is not designated, the clause only applies to performance in the designated area.

(1) For DoD contracts, designated areas are areas of—

(i) Contingency operations outside the United States;

(ii) Combat operations, as designated by the Secretary of Defense; or

(iii) Other significant military operations, as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(2) For non-DoD contracts, designated areas are areas of—

(i) Combat operations, as designated by the Secretary of Defense; or

(ii) Other significant military operations, as designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State.

(c) *Requirements.* The Contractor is required to—

(1) Ensure that all employees of the Contractor who are responsible for performing private security functions under this contract comply with 32 CFR part 159, and with any orders, directives, and instructions to Contractors performing private security functions that are identified in the contract for—

(i) Registering, processing, accounting for, managing, overseeing, and keeping appropriate records of personnel performing private security functions;

(ii) Authorizing and accounting for weapons to be carried by or available to be used by personnel performing private security functions;

(iii) Registering and identifying armored vehicles, helicopters, and other military vehicles operated by Contractors performing private security functions; and

(iv) Reporting incidents in which—

(A) A weapon is discharged by personnel performing private security functions;

(B) Personnel performing private security functions are attacked, killed, or injured;

(C) Persons are killed or injured or property is destroyed as a result of conduct by Contractor personnel;

(D) A weapon is discharged against personnel performing private security functions or personnel performing such functions believe a weapon was so discharged; or

(E) Active, non-lethal countermeasures (other than the discharge of a weapon) are employed by personnel performing private security functions in response to a perceived immediate threat;

(2) Ensure that the Contractor and all employees of the Contractor who are responsible for performing private security functions under this contract are briefed on and understand their obligation to comply with—

(i) Qualification, training, screening (including, if applicable, thorough background checks), and security requirements established by 32 CFR part 159, Private Security Contractors (PSCs) Operating in Contingency Operations, Combat Operations, or Other Significant Military Operations;

(ii) Applicable laws and regulations of the United States and the host country and applicable treaties and international agreements regarding performance of private security functions;

(iii) Orders, directives, and instructions issued by the applicable commander of a combatant command or relevant Chief of Mission relating to weapons, equipment, force protection, security, health, safety, or relations and interaction with locals; and

(iv) Rules on the use of force issued by the applicable commander of a combatant command or relevant Chief of Mission for personnel performing private security functions; and

(3) Cooperate with any Government-authorized investigation of incidents reported pursuant to paragraph (c)(1)(iv) of this clause and incidents of alleged misconduct by personnel performing private security functions under this contract by providing—

(i) Access to employees performing private security functions; and

(ii) Relevant information in the possession of the Contractor regarding the incident concerned.

(d) *Remedies.* In addition to other remedies available to the Government—

(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor or subcontractor personnel performing private security functions who fail to comply with or violate applicable requirements of this clause or 32 CFR part 159. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract.

(2) The Contractor's failure to comply with the requirements of this clause will be included in appropriate databases of past performance and considered in any

responsibility determination or evaluation of past performance; and

(3) If this is an award-fee contract, the Contractor's failure to comply with the requirements of this clause shall be considered in the evaluation of the Contractor's performance during the relevant evaluation period, and the Contracting Officer may treat such failure to comply as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period.

(e) *Rule of construction.* The duty of the Contractor to comply with the requirements of this clause shall not be reduced or diminished by the failure of a higher- or lower-tier Contractor or subcontractor to comply with the clause requirements or by a failure of the contracting activity to provide required oversight.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that will be performed in areas of—

(1) *DoD contracts only:* Contingency operations, combat operations, as designated by the Secretary of Defense, or other significant military operations, as designated by the Secretary of Defense upon agreement of the Secretary of State; or

(2) *Non-DoD contracts:* Combat operations, as designated by the Secretary of Defense, or other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area.

(End of clause)

■ 6. Amend section 52.244–6 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraph (c)(1)(ix) as paragraph (c)(1)(x); and

■ c. Adding a new paragraph (c)(1)(ix).

The revised and added text reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Jul 2013)

* * * * *

(c)(1) * * *

(ix) 52.225–26, Contractors Performing Private Security Functions Outside the United States *Jul 2013)* (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

[FR Doc. 2013–14610 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1 and 7

[FAC 2005–67; FAR Case 2013–004; Item II; Docket 2013–0004, Sequence 1]

RIN 9000–AM52

Federal Acquisition Regulation; Contracting Officer's Representative

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to improve contract surveillance by clarifying the contracting officer's representative (COR) responsibilities.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2013–004.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing a final rule to improve contract surveillance by clarifying the COR responsibilities in FAR 1.602–2(d). In addition, a corresponding change is also made at FAR 7.104(e).

This case originated from a DoD Panel on Contracting Integrity recommendation. The DoD Panel on Contracting Integrity, an internal DoD panel, consists of senior-level DoD officials from across DoD working to review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur, and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. In order to improve the contracting environment, this rule provides additional explanation in the FAR to ensure that CORs understand their duties and responsibilities to survey contractor performance.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operation procedures of the agency issuing the policy, regulation, procedure, or form or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it only involves internal Government procedures regarding the appointment of CORs and the clarification of COR responsibilities. This rule does not have a significant effect beyond the internal operation procedures of the agency issuing the policy, regulation, procedure, or form, and there is no significant cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1 and 7

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1 and 7 as set forth below:

■ 1. The authority citation for 48 CFR parts 1 and 7 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.602–2 by—
■ a. Removing from the end of paragraph (b) ''and'';
■ b. Removing from paragraph (c) ''.'' and adding ''; and'' in its place; and
■ c. Revising paragraph (d) to read as follows:

1.602–2 Responsibilities.

* * * * *

(d) Designate and authorize, in writing and in accordance with agency procedures, a contracting officer's representative (COR) on all contracts and orders other than those that are firm-fixed price, and for firm-fixed-price contracts and orders as appropriate, unless the contracting officer retains and executes the COR duties. See 7.104(e). A COR—

(1) Shall be a Government employee, unless otherwise authorized in agency regulations;

(2) Shall be certified and maintain certification in accordance with the current Office of Management and Budget memorandum on the Federal Acquisition Certification for Contracting Officer Representatives (FAC–COR) guidance, or for DoD, in accordance with the current applicable DoD policy guidance;

(3) Shall be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with agency procedures;

(4) May not be delegated responsibility to perform functions that have been delegated under 42.202 to a contract administration office, but may be assigned some duties at 42.302 by the contracting officer;

(5) Has no authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract nor in any way direct the contractor or its subcontractors to operate in conflict with the contract terms and conditions;

(6) Shall be nominated either by the requiring activity or in accordance with agency procedures; and

(7) Shall be designated in writing, with copies furnished to the contractor and the contract administration office—

(i) Specifying the extent of the COR's authority to act on behalf of the contracting officer;

(ii) Identifying the limitations on the COR's authority;

(iii) Specifying the period covered by the designation;

(iv) Stating the authority is not redelegable; and

(v) Stating that the COR may be personally liable for unauthorized acts.

PART 7—ACQUISITION PLANNING

■ 3. Amend section 7.104 by revising paragraph (e) to read as follows:

7.104 General procedures.

* * * * *

(e) The planner shall ensure that a COR is nominated as early as practicable in the acquisition process by the requirements official or in accordance with agency procedures. The contracting officer shall designate and authorize a COR as early as practicable after the nomination. See 1.602–2(d).

[FR Doc. 2013–14611 Filed 6–20–13; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 8, 9, 12, 13, 16, 17, 18, 19, 22, 25, 26, 28, 32, 44, and 52

[FAC 2005–67; FAR Case 2012–033; Item III; Docket 2012–0033, Sequence 1]

RIN 9000–AM51

Federal Acquisition Regulation; System for Award Management Name Change, Phase 1 Implementation

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to reflect the joining of the Central Contractor Registration (CCR), Online Representations and Certification Application (ORCA), and Excluded Parties List System (EPLS) databases into the System for Award Management (SAM) database.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2012–033.

SUPPLEMENTARY INFORMATION:

I. Background

The E-Government Act of 2002 (Pub. L. 107–347) was enacted in an effort to improve the management and promotion of electronic Government services and processes. The Act established a framework of measures that require using Internet-based information technology to improve citizen access to Government information and services. GSA has embraced the intent of the Act by consolidating the Government-wide acquisition and award support systems into SAM. SAM is an information system tool that streamlines the Federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information, thereby eliminating the need to enter multiple sites and perform duplicative data entry. SAM consolidates hosting to improve the efficiency of doing business with the Government.

GSA began implementation of Phase 1 of SAM on July 29, 2012. Phase 1 combined the functional capabilities of the CCR, ORCA, and EPLS applications into the SAM database. Upon implementation, the pre-existing applications were retired, and all requirements for entity registration, representations and certifications, and exclusions are now accomplished via SAM. This final rule amends the FAR by updating references and names to conform to the SAM designation. This final rule also makes a number of minor additional conforming changes, such as updates to definitions.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an

amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the rule itself does not change the databases and applications referenced in the FAR, it only reflects changes that have occurred to the systems that are utilized in the performance of those functions relating to entity registration, representations and certifications, and exclusions. Therefore, this rule does not create a significant cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2, 4, 8, 9, 12, 13, 16, 17, 18, 19, 22, 25, 26, 28, 32, 44, and 52

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 8, 9, 12, 13, 16, 17, 18, 19, 22, 25, 26, 28, 32, 44, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 4, 8, 12, 13, 16, 17, 19, 22, 25, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by—

■ a. Removing the definition ''Central Contractor Registration (CCR) database'';

■ b. Removing from the definition, ''Data Universal Numbering System +4 (DUNS+4) number'' the word ''CCR'' and adding ''System for Award Management'' in its place;

■ c. Removing the definitions ''Excluded Parties List System'' and ''Online Representations and Certifications Application (ORCA)'';

■ d. Removing the definition ''Registered in the CCR database'' and adding, in alphabetical order, the definition ''Registered in the System for Award Management (SAM) database'';

■ e. Removing from the definition, ''Small disadvantaged business concern'' in paragraph (1)(iii), the word ''CCR''; and

■ f. Adding, in alphabetical order, the definition ''System for Award Management (SAM)'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Registered in the System for Award Management (SAM) database means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, the Contractor and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into the SAM database;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record ''Active''.

* * * * *

System for Award Management (SAM) means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.203 [Amended]

■ 3. Amend section 4.203 by removing from the introductory text of paragraph (e)(1) ''a central contractor registration database'' and adding ''the System for Award Management'' in its place.

■ 4. Amend section 4.605 by revising paragraph (b) to read as follows:

4.605 Procedures.

* * * * *

(b) *Data Universal Numbering System.* The contracting officer must identify and report a Data Universal Numbering System (DUNS) number (Contractor Identification Number) for the successful offeror on a contract action. The DUNS number reported must identify the successful offeror's name and address as stated in the offer and resultant contract, and as registered in the System for Award Management database in accordance with the provision at 52.204–7, System for Award Management. The contracting officer must ask the offeror to provide its DUNS number by using either the provision at 52.204–6, Data Universal Numbering System Number, the provision at 52.204–7, System for Award Management, or the provision at 52.212–1, Instructions to Offerors—Commercial Items.

* * * * *

4.607 [Amended]

■ 5. Amend section 4.607 by removing from paragraph (b) ''Central Contractor

Registration'' and adding ''System for Award Management'' in its place.

4.905 [Amended]

■ 6. Amend section 4.905 by removing from paragraph (a) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

■ 7. Revising the subpart heading of Subpart 4.11 to read as follows:

Subpart 4.11—System for Award Management

4.1100 [Amended]

8. Amend section 4.1100 by removing from the introductory text ''Central Contractor Registration (CCR)'' and adding ''System for Award Management (SAM)'' in its place.

4.1102 [Amended]

■ 9. Amend section 4.1102 by—
■ a. Removing from paragraph (a), introductory text, and paragraph (a)(2) ''CCR'' and adding ''SAM'' in their places (three times);
■ b. Removing from paragraph (a)(6) ''CCR'' and adding ''System for Award Management'' in its place;
■ c. Removing from paragraph (b) and paragraph (c)(1)(i) ''CCR'' and adding ''SAM'' in their places;
■ d. Removing from paragraph (c)(1)(ii) ''Central Contractor Registration'' and ''CCR'' and adding ''System for Award Management'' and ''SAM'' in their places, respectively; and
■ e. Removing from paragraph (c)(2) and paragraph (c)(3) ''CCR'' and adding ''SAM'' in their places (three times).

4.1103 [Amended]

■ 10. Amend section 4.1103 by—
■ a. Removing from paragraph (a)(1) ''CCR'' and adding ''SAM'' in its place (twice);
■ b. Removing from paragraphs (b), introductory text, and (b)(1) ''CCR'' and adding ''SAM'' in their places; and
■ c. Removing from paragraph (b)(3) ''CCR'' and adding ''the System for Award Management'' in its place.
■ d. Removing from paragraph (c) ''CCR'' and adding ''SAM'' in their places.

4.1105 [Amended]

■ 11. Amend section 4.1105 by removing from paragraphs (a)(1), (a)(2), and (b) the words ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

4.1200 [Amended]

■ 12. Amend section 4.1200 by removing from the introductory text ''Online Representations and Certifications Application (ORCA)'' and adding ''System for Award Management (SAM)'' in its place.

■ 13. Amend section 4.1201 by:
■ a. Revising paragraph (a); and
■ b. Removing from paragraphs (b)(1), (b)(2), and (c) ''ORCA'' and adding ''SAM'' in their places (eight times).

The revised text reads as follows:

4.1201 Policy.

(a) Prospective contractors shall complete electronic annual representations and certifications at SAM accessed via *https://www.acquisition.gov* as a part of required registration (see FAR 4.1102).

* * * * *

4.1202 [Amended]

■ 14. Amend section 4.1202 by removing from the introductory text ''Central Contract Registration'' and adding ''System for Award Management'' in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.402 [Amended]

■ 15. Amend section 8.402 by removing from paragraph (g) ''Central Contractor Registration (CCR)'' and adding ''System for Award Management'' in its place.

PART 9—CONTRACTOR QUALIFICATIONS

■ 16. The authority citation for 48 CFR part 9 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

9.105–1 [Amended]

■ 17. Amend section 9.105–1 by removing from paragraph (c), introductory text, ''Excluded Parties List System (EPLS)'' and adding ''System for Award Management Exclusions'' in its place.

■ 18. Amend section 9.207 by revising paragraph (a)(9) to read as follows:

9.207 Changes in status regarding qualification requirements.

(a) * * *

(9) The source is listed in the System for Award Management Exclusions (see Subpart 9.4); or

* * * * *

■ 19. Revise section 9.404 to read as follows:

9.404 System for Award Management Exclusions.

(a) The General Services Administration (GSA)—

(1) Operates the web-based System for Award Management (SAM) Exclusions; and

(2) Provides technical assistance to Federal agencies in the use of SAM.

(b) The SAM Exclusions contains the—

(1) Names and addresses of all contractors debarred, suspended, proposed for debarment, declared ineligible, or excluded or disqualified under the nonprocurement common rule, with cross-references when more than one name is involved in a single action;

(2) Name of the agency or other authority taking the action;

(3) Cause for the action (see 9.406–2 and 9.407–2 for causes authorized under this subpart) or other statutory or regulatory authority;

(4) Effect of the action;

(5) Termination date for each listing;

(6) Data Universal Numbering System number;

(7) Social Security Number (SSN), Employer Identification Number (EIN), or other Taxpayer Identification Number (TIN), if available; and

(8) Name and telephone number of the agency point of contact for the action.

(c) Each agency must—

(1) Obtain password(s) from GSA to access SAM for data entry;

(2) Notify GSA in the event a password needs to be rescinded (*e.g.,* when an agency employee leaves or changes function);

(3) Enter the information required by paragraph (b) of this section within 3 working days after the action becomes effective;

(4) Determine whether it is legally permitted to enter the SSN, EIN, or other TIN, under agency authority to suspend or debar;

(5) Update SAM Exclusions, generally within 5 working days after modifying or rescinding an action;

(6) In accordance with internal retention procedures, maintain records relating to each debarment, suspension, or proposed debarment taken by the agency;

(7) Establish procedures to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors whose names are in SAM Exclusions, except as otherwise provided in this subpart;

(8) Direct inquiries concerning listed contractors to the agency or other authority that took the action; and

(9) Contact GSA for technical assistance with SAM, via the support email address or on the technical support phone line available at the SAM Web site provided in paragraph (d) of this section.

(d) SAM is available via *https://www.acquisition.gov.*

9.405 [Amended]

■ 20. Amend section 9.405 by removing from paragraphs (b), (d)(1), and (d)(4) the words ''the EPLS'' and adding ''SAM Exclusions'' in its place.

9.405–2 [Amended]

■ 21. Amend section 9.405–2 by—
■ a. Removing from paragraph (b), introductory text, ''inclusion in the EPLS'' and adding ''listing in SAM Exclusions'' in its place;
■ b. Removing from paragraph (b)(2) ''in the EPLS'' and adding ''listed in SAM Exclusions'' in its place; and
■ c. Removing from paragraph (b)(3) ''inclusion in the EPLS'' and adding ''listing in SAM Exclusions'' in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301 [Amended]

■ 22. Amend section 12.301 by removing from paragraph (e)(4) ''Online Representations and Certifications Application (ORCA) Database'' and adding ''System for Award Management database'' in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.102 [Amended]

■ 23. Amend section 13.102 by removing from paragraph (a), introductory text, ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

13.201 [Amended]

■ 24. Amend section 13.201 by removing from paragraph (h) ''Central Contractor Registration (CCR)'' and adding ''System for Award Management'' in its place.

PART 16—TYPES OF CONTRACTS

16.505 [Amended]

■ 25. Amend section 16.505 by removing from paragraph (a)(12) ''Central Contractor Registration (CCR)'' and adding ''System for Award Management'' in its place.

PART 17—SPECIAL CONTRACTING METHODS

■ 26. Amend section 17.207 by revising paragraph (c)(5) to read as follows:

17.207 Exercise of options.

* * * * *

(c) * * *

(5) The contractor is not listed in the System for Award Management Exclusions (see FAR 9.405–1).

* * * * *

PART 18—EMERGENCY ACQUISITIONS

■ 27. The authority citation for 48 CFR part 18 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 28. Revise section 18.102 to read as follows:

18.102 System for Award Management.

Contractors are not required to be registered in the System for Award Management (SAM) database for contracts awarded to support unusual and compelling needs or emergency acquisitions. (See 4.1102). However, contractors are required to register with SAM in order to gain access to the Disaster Response Registry. Contracting officers shall consult the Disaster Response Registry via *https://www.acquisition.gov* to determine the availability of contractors for debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities inside the United States and outlying areas. (See 26.205).

PART 19—SMALL BUSINESS PROGRAMS

19.308 [Amended]

■ 29. Amend section 19.308 by removing from paragraph (h)(2)(i) ''Central Contractor Registration (CCR) and Online Representations and Certifications Application (ORCA)'' and adding ''System for Award Management (SAM)'' in its place; and removing from paragraph (h)(3)(iv) ''CCR and ORCA'' and adding ''SAM'' in its place.

19.703 [Amended]

■ 30. Amend section 19.703 by removing from paragraph (d)(1), introductory text, ''Central Contractor Registration (CCR)'' and adding ''System for Award Management'' in its place.

19.1503 [Amended]

■ 31. Amend section 19.1503 by removing from paragraph (b)(1) ''Central Contractor Registration (CCR)'' and adding ''the System for Award Management (SAM)'' in its place; and removing from paragraph (b)(2) ''in the Online Representations and Certifications Application (ORCA)'' and adding ''as an EDWOSB or WOSB concern in SAM'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1025 [Amended]

■ 32. Amend section 22.1025 by removing ''Excluded Parties List System'' and adding ''System for Award Management Exclusions'' in its place.

PART 25—FOREIGN ACQUISITION

25.703–3 [Amended]

■ 33. Amend section 25.703–3 by removing from paragraph (a) ''on the Excluded Parties List System'' and adding ''in the System for Award Management Exclusions'' in its place.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

■ 34. The authority citation for 48 CFR part 26 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

26.205 [Amended]

■ 35. Amend section 26.205 by removing from paragraph (b) ''CCR Search'' and ''CCR'' and adding ''System for Award Management (SAM) search'' and ''SAM'' in their places, respectively.

PART 28—BONDS AND INSURANCE

■ 36. The authority citation for 48 CFR part 28 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

28.203–7 [Amended]

■ 37. Amend section 28.203–7 by removing from paragraphs (c) and (d) ''Excluded Parties List System'' and adding ''System for Award Management Exclusions'' in their places.

PART 32—CONTRACT FINANCING

32.805 [Amended]

■ 38. Amend section 32.805 by removing from paragraph (d)(4) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

32.905 [Amended]

■ 39. Amend section 32.905 by removing from paragraph (b)(1)(ix)(B) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place (twice).

■ 40. Amend section 32.1108 by—
■ a. Removing from paragraph (b)(2)(i) ''Central Contractor Registration (CCR)'' and adding ''System for Award Management (SAM)'' in its place;
■ b. Revise paragraph (b)(2)(ii); and

■ c. Removing from paragraphs (b)(2)(iii) and (b)(2)(iv) ''CCR'' and adding ''SAM'' in its place.

The revised text reads as follows:

32.1108 Payment by Governmentwide commercial purchase card.

* * * * *

(b) * * *

(2) * * *

(ii) The contracting officer shall not authorize the Governmentwide commercial purchase card as a method of payment during any period the SAM indicates that the contractor has delinquent debt subject to collection under the TOP. In such cases, payments under the contract shall be made in accordance with the clause at 52.232–33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232–34, Payment by Electronic Funds Transfer—Other Than System for Award Management, as appropriate (see FAR 32.1110(d)).

* * * * *

■ 41. Amend section 32.1110 by—

■ a. Removing from the introductory text of paragraph (a)(1) ''Central Contractor Registration'' and ''CCR'' and adding ''System for Award Management'' and ''System for Award Management (SAM)'' in its place, respectively;

■ b. Revising paragraph (a)(2)(i); and

■ c. Removing from paragraphs (d), (e)(1), (e)(2), and (g) ''Central Contractor Registration'' and adding ''System for Award Management'' in their places (five times).

The revised text reads as follows:

32.1110 Solicitation provision and contract clauses.

(a) * * *

(2)(i) 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management, in solicitations and contracts that require EFT as the method for payment but do not include the provision at 52.204–7, System for Award Management, or a similar agency clause that requires the contractor to be registered in the SAM database.

* * * * *

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

■ 42. The authority citation for 48 CFR part 44 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

44.202–2 [Amended]

■ 43. Amend section 44.202–2 by removing from paragraph (a)(13) ''Excluded Parties List System'' and adding ''System for Award Management Exclusions'' in its place.

■ 44. Amend section 44.303 by revising paragraph (d) to read as follows:

44.303 Extent of review.

* * * * *

(d) Methods of evaluating subcontractor responsibility, including the contractor's use of the System for Award Management Exclusions (see 9.404) and, if the contractor has subcontracts with parties on the Exclusions list, the documentation, systems, and procedures the contractor has established to protect the Government's interests (see 9.405–2);

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 45. Amend section 52.204–6 by:

■ a. Revising the date of the provision; and

■ b. Removing from paragraph (b) ''CCR'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.204–6 Data Universal Numbering System Number.

* * * * *

Data Universal Numbering System Number (Jul 2013)

* * * * *

■ 46. Amend section 52.204–7 by—

■ a. Revising the section heading;

■ b. Revising the provision heading and the date of the provision;

■ c. Amending paragraph (a) by—

■ i. Removing the definition ''Central Contractor Registration (CCR) database'';

■ ii. Removing from the definition ''Data Universal Numbering System +4 (DUNS+4) number'' the acronym ''CCR'' and adding ''System for Award Management'' in its place;

■ iii. Removing the definition ''Registered in the CCR database''; and adding, in alphabetical order, the definition ''Registered in the System for Award Management (SAM) database''; and

■ d. Removing from paragraphs (b)(1), (b)(2), and (d) ''CCR'' and adding ''SAM'' in their places; and

■ e. Revising the date of Alternate I; and removing from paragraph (b)(1) of Alternate I ''CCR database'' and adding ''System for Award Management'' in its place (twice).

The revised text reads as follows:

52.204–7 System for Award Management.

* * * * *

System for Award Manangement (Jul 2013)

(a) * * *

Registered in the System for Award Management (SAM) database means that—

(1) The offeror has entered all mandatory information, including the DUNS number or the DUNS+4 number, the Contractor and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see Subpart 4.14) into the SAM database;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record ''Active''.

* * * * *

Alternate I (Jul 2013) * * *

* * * * *

■ 47. Amend section 52.204–8 by—

■ a. Revising the date of the provision;

■ b. Removing from paragraph (b)(1) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place;

■ c. Removing from paragraph (b)(2), introductory text, ''CCR'' and ''ORCA'' and adding ''the System for Award Management (SAM)'' and ''Representations and Certifications section of SAM'' in their places, respectively;

■ d. Removing from paragraph (c)(1), introductory text, ''ORCA'' and adding ''SAM'' in its place;

■ e. Removing from paragraph (c)(1)(iii) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place; and

■ f. Revising paragraph (d).

The revised text reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Jul 2013)

* * * * *

(d) The offeror has completed the annual representations and certifications electronically via the SAM Web site accessed through *https://www.acquisition.gov.* After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert*

changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause No.	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

■ 48. Amend section 52.204–10 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (d)(1), introductory text, ''Central Contractor Registration (CCR)'' and adding ''System for Award Management (SAM)'' in its place; and
■ c. Removing from paragraph (h) ''CCR'' and adding ''SAM'' in its place (twice).

The revised text reads as follows:

52.204–10 Reporting Executive Compensation and First-Tier Subcontract Awards.

* * * * *

Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013)

* * * * *

■ 49. Amend section 52.204–13 by—
■ a. Revising the section heading;
■ b. Revising the clause heading and the date of the clause;
■ c. Amending paragraph (a) by—
■ i. Removing the definition ''Central Contractor Registration (CCR) database'';
■ ii. Removing from the definition ''Data Universal Numbering System +4 (DUNS+4) number'' the acronym ''CCR'' and adding ''SAM'' in its place;
■ iii. Removing the definition ''Registered in the CCR database'' and adding, in alphabetical order, the definition ''Registered in the System for Award Management (SAM) database'';
and
■ iv. Adding, in alphabetical order, the definition ''System for Award Management (SAM)'';
■ d. Removing from paragraph (b) ''CCR'' and adding ''SAM'' in its place (four times);
■ e. Removing from paragraphs (c)(1)(i)(A) and (c)(1)(ii) ''CCR'' and adding ''SAM'' in its place; and
■ f. Revising paragraph (c)(2).

The revised text reads as follows:

52.204–13 System for Award Management Maintenance.

* * * * *

System for Award Management Maintenance (Jul 2013)

(a) * * *

Registered in the System for Award Management (SAM) database means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, the Contractor and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into the SAM database;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record ''Active''.

System for Award Management (SAM) means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

* * * * *

(c) * * *

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the ''Suspension of Payment'' paragraph of the EFT clause of this contract.

* * * * *

■ 50. Amend section 52.209–6 by revising the date of the clause and paragraph (d) to read as follows:

52.209–6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

* * * * *

Protecting The Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (Jul 2013)

* * * * *

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

* * * * *

■ 51. Amend section 52.209–7 by:
■ a. Revising the date of the provision; and
■ b. Removing from paragraph (d) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.209–7 Information Regarding Responsibility Matters.

* * * * *

Information Regarding Responsibility matters (Jul 2013)

* * * * *

■ 52. Amend section 52.209–9 by revising the date of the clause; and removing from paragraph (a) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place. The revised text reads as follows:

52.209–9 Updates of Publicly Available Information Regarding Responsibility Matters.

* * * * *

Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013)

* * * * *

■ 53. Amend section 52.212–1 by—

■ a. Revising the date of the provision**;**
■ b. Removing from paragraph (j) ''Central Contractor Registration (CCR)'' and ''CCR'' and adding ''System for Award Management (SAM)'' and ''SAM'' in their places, respectively; and
■ c. Revising paragraph (k).

The revised text reads as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (Jul 2013)

* * * * *

(k) *System for Award Management.* Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the SAM database accessed through *https://www.acquisition.gov.*

* * * * *

■ 54. Amend section 52.212–3 by—
■ a. Revising the date of the provision;
■ b. Removing from the introductory text ''ORCA'' and adding ''System for Award Management (SAM)'' in its place;
■ c. Removing from paragraph (b)(1) ''Online Representations and Certifications Application (ORCA)'' and adding ''SAM'' in its place;
■ d. Removing from paragraph (b)(2) ''ORCA'' and adding ''SAM'' in its place (three times);
■ e. Removing from paragraph (c)(10)(i)(A) ''CCR'' and adding ''SAM'' in its place; and
■ f. Removing from paragraph (l), introductory text ''a central contractor registration'' and adding ''the SAM'' in its place.

The revised text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial items (Jul 2013)

* * * * *

■ 55. Amend section 52.212–4 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (g)(1)(x)(B) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place (twice);
■ c. Revising the heading of paragraph (t);
■ d. Removing from paragraphs (t)(1), (t)(2)(i), (t)(2)(ii), and (t)(3) ''CCR'' and adding ''SAM'' in its place (nine times); and
■ e. Revising paragraph (t)(4).

The revised text reads as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items (Jul 2013)

* * * * *

(t) *System for Award Management (SAM)*

* * *

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through *https://www.acquisition.gov.*

* * * * *

■ 56. Amend section 52.212–5 by—
■ a. Revising the date of the clause**;**
■ b. Revising paragraphs (b)(4), (b)(6), (b)(7), (b)(14), (b)(15)(i), (b)(20), (b)(23), (b)(24), (b)(25), (b)(48), (b)(49), and (b)(50);
■ c. Revising paragraph (e)(1)(ii); and
■ d. Amending Alternate II by revising the dates in the introductory text and the first sentence in paragraph (e)(1)(ii)(C).

The revised text reads as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Jul 2013)

* * * * *

(b) * * *

____ (4) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109–282) (31 U.S.C. 6101 note).

* * * * *

____ (6) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Jul 2013) (31 U.S.C. 6101 note).

____ (7) 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

* * * * *

____ (14) 52.219–8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637 (d)(2) and (3)).

____ (15)(i) 52.219–9, Small Business Subcontracting Plan (Jul 2013) (15 U.S.C. 637(d)(4)).

* * * * *

____ (20) 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013) (Pub. L. 103–355, section 7102, and 10 U.S.C. 2323).

* * * * *

____ (23) 52.219–28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

____ (24) 52.219–29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).

____ (25) 52.219–30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).

* * * * *

____ (48) 52.232–33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

____ (49) 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

____ (50) 52.232–36, Payment by Third Party (Jul 2013) (31 U.S.C. 3332).

* * * * *

(e)(1) * * *

(ii) 52.219–8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

____ Alternate II (Jul 2013) * * *

* * * * *

(e)(1) * * *

(ii) * * *

(C) 52.219–8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. * * *

* * * * *

■ 57. Amend section 52.213–4 by revising the date of the clause and paragraphs (a)(2)(iv), (a)(2)(vi), (b)(1)(i), (b)(1)(xi), (b)(1)(xii), and (b)(2)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Jul 2013)

* * * * *

(a) * * *

(2) * * *

(iv) 52.232–25, Prompt Payment (Jul 2013).

* * * * *

(vi) 52.244–6, Subcontracts for Commercial Items (Jul 2013).

* * * * *

(b) * * *

(1) * * *

(i) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109–282) (31 U.S.C. 6101 note) (Applies to contracts valued at $25,000 or more).

* * * * *

(xi) 52.232–33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013). (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) database as its source of EFT information.)

(xii) 52.232–34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013). (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information.)

* * * * *

(2) * * *

(i) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jul 2013) (Applies to contracts over $30,000).

* * * * *

■ 58. Amend section 52.219–8 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (c), in the definition ''Small disadvantaged business concern'', in paragraph (1)(iv) the acronym, ''CCR''; and

■ c. Removing from paragraph (d)(2), introductory text, ''Central Contractor Registration (CCR)'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (Jul 2013)

* * * * *

■ 59. Amend section 52.219–9 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (d)(5);

■ c. Removing from paragraph (d)(11)(i) ''CCR'' and adding ''SAM'' in its place; and

■ d. Removing from paragraph (e)(4) ''Central Contractor Registration (CCR)'' and adding ''SAM'' in its place.

The revised text reads as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Jul 2013)

* * * * *

(d) * * *

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.,* existing company source lists, the System for Award Management (SAM), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.,* outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

* * * * *

■ 60. Amend section 52.219–25 by:

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a) ''Central Contractor Registration database'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.219–25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.

* * * * *

Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013)

* * * * *

■ 61. Amend section 52.219–28 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (e); and

■ c. Removing from paragraph (g) ''ORCA'' and adding ''SAM'' in its place (two times).

The revised text reads as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

* * * * *

Post-Award Small Business Program Rerepresentation (Jul 2013)

* * * * *

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

* * * * *

■ 62. Amend section 52.219–29 by:

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (e)(2) ''Central Contractor Registration (CCR) database and the Online Representations and Certifications Application (ORCA)'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.219–29 Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns.

* * * * *

Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns (Jul 2013)

* * * * *

■ 63. Amend section 52.219–30 by:

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (e)(2) ''Central Contractor Registration (CCR) database and the Online Representations and Certifications Application (ORCA)'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.219–30 Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.

* * * * *

Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Jul 2013)

* * * * *

■ 64. Amend section 52.232–25 by:

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a)(3)(ix)(B) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place (two times).

The revised text reads as follows:

52.232–25 Prompt Payment.

* * * * *

Prompt Payment (Jul 2013)

* * * * *

■ 65. Amend section 52.232–26 by:

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a)(2)(ix)(B) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place (two times).

The revised text reads as follows:

52.232–26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

* * * * *

Prompt Payment for Fixed-Price Architect-Engineer Contracts (Jul 2013)

* * * * *

■ 66. Amend section 52.232–27 by revising the date of the clause; and removing from paragraph (a)(2)(x)(B) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place (two times).

52.232–27 Prompt Payment for Construction Contracts.

* * * * *

Prompt Payment For Construction Contracts (Jul 2013)

* * * * *

■ 67. Amend section 52.232–33 by—

■ a. Revising the section heading;
■ b. Revising the clause heading and the date of the clause;
■ c. Removing from paragraph (b) ''Central Contractor Registration (CCR)'' and ''CCR'' and adding ''System for Award Management (SAM)'' and ''SAM'' in its place, respectively;
■ d. Removing from paragraph (d) ''CCR'' and adding ''SAM'' in its place (two times); and
■ e. Removing from paragraph (g) and paragraph (i) ''CCR'' and adding ''SAM'' in its place.

The revised text reads as follows:

52.232–33 Payment by Electronic Funds Transfer—System for Award Management.

* * * * *

Payment by Electronic Funds Transfer—System for Award Management (Jul 2013)

* * * * *

■ 68. Amend section 52.232–34 by revising the section and clause headings and the date of the clause to read as follows:

52.232–34 Payment by Electronic Funds Transfer—Other than System for Award Management.

* * * * *

Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013)

* * * * *

■ 69. Amend section 52.232–35 by:
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a) ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.232–35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.

* * * * *

Designation of Office for Government Receipt of Electronic Funds Transfer Information (Jul 2013)

* * * * *

■ 70. Amend section 52.232–36 by:
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a)(2) ''Central Contractor Registration (CCR)'' and ''CCR'' and adding ''System for Award Management (SAM)'' and ''SAM'' in their places, respectively.

The revised text reads as follows:

52.232–36 Payment by Third Party.

* * * * *

Payment by Third Party (Jul 2013)

* * * * *

■ 71. Amend section 52.232–38 by:
■ a. Revising the date of the clause; and
■ b. Removing from the introductory text ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

The revised text reads as follows:

52.232–38 Submission of Electronic Funds Transfer Information with Offer.

* * * * *

Submission of Electronic Funds Transfer Information With Offer (Jul 2013)

* * * * *

■ 72. Amend section 52.244–6 by revising the date of the clause and paragraph (c)(1)(iii) to read as follows.

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Jul 2013)

* * * * *

(c)(1) * * *

(iii) 52.219–8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

[FR Doc. 2013–14612 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 17

[FAC 2005–67; FAR Case 2012–010; Item IV; Docket 2012–0010, Sequence 1]

RIN 9000–AM36

Federal Acquisition Regulation; Interagency Acquisitions: Compliance by Nondefense Agencies With Defense Procurement Requirements

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are adopting as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to add new requirements specific to the acquisition of supplies and services by nondefense agencies on behalf of DoD. This rule implements a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008, with later amendments; and section 801 of the NDAA for FY 2013, Public Law 112–239.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Corrigan, Procurement Analyst, at 202–208–1963 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2012–010.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 77 FR 69720 on November 20, 2012, to implement the requirements of section 801 of the NDAA for FY 2008 (Pub. L. 110–181) as amended, (10 U.S.C. 2304 note). The interim rule made the following changes:

- Clarified FAR 4.603(c) regarding the allocation of socioeconomic credit to the requesting agency for assisted acquisitions.
- Created a new FAR subpart 17.7, which establishes the policy related to internal controls and compliance certification under which nondefense agencies may procure supplies and services on behalf of DoD and identified DoD acquisition official responsibilities to identify DoD unique requirements. The new FAR subpart 17.7 cross-references and is cross-referenced at FAR subpart 17.5, Interagency Acquisitions.

To implement the NDAA for FY 2013, this final rule changes ''defense'' to ''applicable'' in FAR 17.703(a) and (b).

Three respondents submitted comments on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

No significant changes have been made in the final rule. However, the following minor changes have been made:

(1) References to the term ''defense procurement'' have been changed to ''applicable procurement'' in order to implement section 801 of the NDAA FY 2013, Pub. L. 112–239.

(2) Based on public comment, DoD class deviations have been included in

the list of laws and regulations that apply to procurements of supplies and services made by DoD through other Federal agencies in FAR 17.703(b)(2).

B. Analysis of Public Comments

1. Location of Coverage

Comment: Suggest that this coverage be moved to a new section within FAR subpart 17.5 (*e.g.,* FAR 17.505). This way, the rule would be where readers would reasonably expect it to be and they would not have to move back and forth between subparts, which are typically located on different Web pages.

Response: To simplify locating the required regulations, a cross reference to FAR subpart 17.7 is included at FAR 17.500 and another cross reference to FAR subpart 17.5 is included at FAR 17.700.

2. Compliance With DoD Class Deviations

Comment: FAR 17.703(b)(2) does not mention DoD class deviations to the FAR and Defense Federal Acquisition Regulation Supplement (DFARS). If nondefense agencies will be required to comply with DoD class deviations, it is suggested that this be explicitly stated along with a Web address where they can be found.

Response: The rule was amended to reference DoD class deviations and the Web address where they can be found.

3. Definition of DoD ''Acquisition Official''

Comment: The commenter knew what a contracting officer is, but wondered what a DoD ''acquisition official'' other than a contracting officer might be. The commenter added that ''all approvals should be routed through the office of the contracting division that would otherwise write the contract.''

Response: The term ''Department of Defense (DoD) acquisition official'' is defined in FAR 17.701, consistent with statute, and is used throughout FAR subpart 17.7. Specific guidance regarding designation of agency acquisition officials, their delegated authority, and routing of contractual documents is more suitable for inclusion in agency regulations rather than the FAR.

4. Frequency of Nondefense Agency Compliance Certifications

Comment: The commenter sees no benefit in adhering to an ''annual'' fiscal year self-certification requirement that ensures a nondefense agency is compliant with defense procurement requirements. The commenter recommends, as a means of eliminating non-value-added paperwork for all parties and procurement delays, that DoD seek approval to change the nondefense agency self-certification requirement from ''each fiscal year'' to ''every five years.''

Response: The annual certification requirement for nondefense agencies that acquire supplies and services on behalf of DoD included in FAR subpart 17.7 is prescribed by law. The suggestion submitted by the commenter requires a statutory change that is beyond the scope of this FAR case.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

Implementation of section 801 of the NDAA for FY 2008 (Pub. L. 110–181), section 806 of the NDAA for FY 2010 (Pub. L. 111–84), section 817 of the NDAA for FY 2012 (Pub. L. 112–81), and section 801 of the NDAA for FY 2013 (Pub. L. 112–239) address requirements specific to the acquisition of property and services by non-defense agencies on behalf of DoD, and are therefore, internal to the Government.

However, this rule also amends the FAR to include a clarification at 4.603(c), restating existing Office of Federal Procurement Policy (OFPP) and Federal Procurement Data System (FPDS) policy regarding the allocation of socio-economic credit for assisted acquisitions, *i.e.,* ''for assisted acquisitions, the requesting agency will receive socio-economic credit for meeting small business goals, where applicable.''

Although we do not expect the clarification to have a direct economic impact on a substantial number of small entities, there is the possibility that the regulatory clarification may improve the accuracy of FPDS data submissions allocating socio-economic credit to agencies for contracts and orders awarded to a substantial number of small entities. Improved data accuracy can have a positive impact on agencies' annual small business goals.

The interim rule was published as part of FAC 2005–62 on November 20, 2012 (77 FR 69720). None of the comments received concerned the initial regulatory flexibility analysis.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 4 and 17

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 4 and 17, which was published in the **Federal Register** at 77 FR 69720, November 20, 2012, is adopted as final with the following change:

PART 17—SPECIAL CONTRACTING METHODS

■ 1. The authority citation for 48 CFR part 17 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 17.703 by—

■ a. Removing from paragraph (a) and the introductory text of paragraph (b) ''with defense'' and adding ''with applicable'' in its place; and

■ b. Revising paragraph (b)(2).

The revised text reads as follows:

17.703 Policy.

* * * * *

(b) * * *

(2) Laws and regulations that apply to procurements of supplies and services made by DoD through other Federal agencies, including DoD financial management regulations, the Defense Federal Acquisition Regulation Supplement (DFARS), DoD class deviations, and the DFARS Procedures, Guidance, and Information (PGI). (The DFARS, DoD class deviations, and PGI

are accessible at: *http://www.acq.osd.mil/dpap/dars*).

* * * * *

[FR Doc. 2013–14613 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 13, 32, 43, and 52

[FAC 2005–67; FAR Case 2013–005; Item V; Docket 2013–0005, Sequence 1]

RIN 9000–AM45

Federal Acquisition Regulation; Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to address concerns raised in an opinion from the U.S. Department of Justice (DOJ) Office of Legal Counsel (OLC) involving the use of unrestricted, open-ended indemnification clauses in acquisitions for social media applications.

DATES: *Effective Date:* June 21, 2013.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before August 20, 2013 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FAC 2005–67, FAR Case 2013–005, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2013–005''. Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2013–005.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2013–005'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* U.S. General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Hada Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–67, FAR Case 2013–005, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, at 202–501–0136 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2013–005.

SUPPLEMENTARY INFORMATION:

I. Background

In a recent opinion, DOJ's OLC noted that the Anti-Deficiency Act (31 U.S.C. 1341) is violated when a Government contracting officer or other employee with authority to bind the Government agrees, without statutory authorization or other exception, to an open-ended, unrestricted indemnification clause. See the March 27, 2012, Memorandum for the Assistant General Counsel for Administration, United States Department of Commerce, available at *http://www.justice.gov/olc/2012/aag-ada-impls-of-consent-by-govt-empls.pdf.* This opinion states that the Anti-Deficiency Act is violated under some circumstances when consent is given by a Government employee to online terms of service agreements containing an open-ended indemnification clause. The amendments made by this rule are designed to prevent violations such as those mentioned above, and other similar types of violations, from occurring in future Federal contracts.

The OLC opinion discusses a situation where a Government purchase card holder consents to an online terms of service (TOS) agreement in the course of registering for an account with a social media application on the Internet that holds the provider of the service harmless in the event harm is caused to a third party when the application is used by the Government. OLC explained that an Anti-Deficiency Act violation has occurred because an agency's agreement to an open-ended indemnification clause could result in the agency's legal liability for an amount in excess of the agency's appropriation.

On April 4, 2013, the Office of Management and Budget (OMB) issued guidance outlining a series of management actions to ensure agencies act in compliance with the Anti-Deficiency Act and in accordance with OLC's opinion. See OMB Guidance M–13–10, Antideficiency Act Implications of Certain Online Terms of Service Agreements, available at *http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-10.pdf.* These actions include consultation with agency counsel and review of a GSA-maintained list of social media applications governed by TOS agreements that are compatible with Federal law, regulation, and practice. The due diligence steps described in OMB's guidance are designed to minimize disruption to agencies' continued use of social media products in support of initiatives that promote greater openness, transparency, and citizen engagement.

As a further step to help agencies maintain their ability to purchase social media products, OMB called on the Federal Acquisition Regulatory Council (FAR Council) to promptly develop appropriate Governmentwide regulations to address the risk of an Anti-Deficiency Act violation indentified in OLC's opinion. Such action is necessary to facilitate a consistent approach across agencies for ensuring that future Federal contract actions do not involve the type of open-ended indemnification provisions discussed in OLC's opinion that give rise to Anti-Deficiency Act violations.

This interim rule focuses only on open-ended indemnification clauses to address the concern raised in OLC's opinion. However, there are also other clauses in commercial End User License Agreement (EULA) and TOS that could result in a violation of the Anti-Deficiency Act if executed by a contracting officer. For instance, a clause that automatically renews a contract, such as for subscription services, at its expiration would violate the Anti-Deficiency Act if it obligated the Government to pay for supplies or services in advance of the agency's appropriation. Additional coverage may be necessary to address these other instances of potential Anti-Deficiency Act (and other Federal law) violations.

II. Discussion and Analysis

This FAR case amends FAR parts 12, 13, 32, 43, and 52 to provide additional guidance and clauses to address OLC's opinion with respect to purchases containing an EULA, TOS, or other similar agreement containing an indemnification provision.

The objective of the interim rule is to clarify that the inclusion of an open-ended indemnification clause in a EULA, TOS, or other agreement, is not binding on the Government unless expressly authorized by law, and shall

be deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

Many supplies or services are acquired subject to supplier license agreements. These are particularly common in information technology acquisitions, but they may apply to any supply or service. For example, computer software and services delivered through the internet (web services) are often subject to license agreements, referred to as EULA, TOS, or other similar legal instruments or agreements. FAR 12.216 and 32.705, Unenforceability of Unauthorized Obligations, are added to provide that many of these agreements contain indemnification clauses that are inconsistent with Federal law and unenforceable, but which could create a violation of the Anti-Deficiency Act (31 U.S.C. 1341) if agreed to by the Government.

FAR 13.202, Unenforceability of unauthorized obligations in micro-purchases, is added to require the clause at 52.232–39, Unenforceability of Unauthorized Obligations, to automatically apply to any micro-purchase, to prevent violations of the Anti-Deficiency Act.

The clause at FAR 52.212–4, Contract Terms and Conditions—Commercial Items, is modified and clause 52.232–39, Unenforceability of Unauthorized Obligations, is added, to address situations when there is an unrestricted, open-ended indemnification provision in EULA, TOS, or similar legal instruments or agreements. The changes clarify that if a EULA, TOS, or similar legal instrument or agreement, includes a clause requiring the Government to indemnify the contractor or any person or entity for damages, costs, or fees, or any other loss or liability that would create an Anti-Deficiency Act violation, such clause is unenforceable against the Government, and is deemed to be stricken from the agreement to prevent violations of the Anti-Deficiency Act.

FAR 12.302 is revised to prevent the contracting officer from tailoring the Unauthorized Obligation paragraph. The Unauthorized Obligation paragraph is added to the Order of Precedence paragraph at paragraph 52.212–4(s)(2).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because, as noted in the OLC opinion, it has always been unenforceable for a contracting officer or other employee with the authority to bind the Government to agree to an open-ended, unrestricted indemnification clause, and the FAR is merely being revised to reflect this. However, an Initial Regulatory Flexibility Analysis has been performed and is summarized as follows:

This interim rule is required to address an opinion by the U.S. Department of Justice Office of Legal Counsel. The changes clarify that if a EULA, TOS, or similar legal instrument or agreement, includes a clause requiring the Government to indemnify the contractor or any person or entity for damages, costs, or fees, or any other loss or liability that would create an Anti-Deficiency Act violation, such clause is unenforceable against the Government, and is deemed to be stricken from the agreement to prevent violations of the Anti-Deficiency Act.

The objective of the interim rule is to clarify that the inclusion of an open-ended indemnification clause in a EULA, TOS, or other agreement, is not binding on the Government unless expressly authorized by statute and specifically authorized under applicable agency regulations and procedures, and shall be deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

This rule will impact entities that contract with the Government who have EULAs or TOS containing an indemnification clause.

This rule will impact all small entities with a supply or service contract subject to a supplier license agreement. However, there is no record keeping or reporting requirement. There may be a small beneficial impact on small entities because these revisions to the FAR will help save time and streamline processes since small entities will no longer have to individually renegotiate, on a prospective basis, a EULA, TOS, or similar agreement containing an indemnification provision. Further, clauses like open-ended, unrestricted indemnification clauses, have generally been unenforceable against the Government, unless expressly authorized by statute, and the FAR is being revised to reflect this.

The Councils estimate that this rule will impact approximately 3,538 small entities. Many supplies or services are acquired subject to supplier license agreements. These are particularly common in information technology acquisitions, but they may apply to any supply or service. The Councils believe the majority of the information technology purchases associated with this rule will be purchased through the GSA Information Technology Schedule 70 contracts. As such, the Councils used, as a basis for the estimate, the number of GSA Information-Technology Schedule 70 vendors, plus an estimate for contractors other than information technology acquisitions.

There are currently 4,988 GSA Information-Technology Schedule 70 vendors. The Councils estimate that this rule will impact 75 percent, or 3,741 of those vendors because they have EULAs or TOS in their Government contracts. Of those affected entities, it is estimated that around 86 percent, or 3,217, will be small entities. The Councils estimate that approximately 10 percent or 321 more small entities across the Government for information technology acquisitions and for other than information-technology acquisition whose Government contracts include EULAs or TOS will be impacted. As a result it is estimated that this rule will impact approximately 3,538 small entities.

The Councils do not anticipate an impact on small entities in acquisitions conducted through Government purchase cards. This is because the rule does not require entities to negotiate or change their agreement language.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

The Councils did not identify any significant alternatives that would appropriately address the DOJ opinion. Steps have been taken in this interim rule to minimize the impact on small entities which help to save them time and streamline their processes; for example, this would greatly reduce the requirement to negotiate all EULAs, TOS, or similar arrangements on a case-by-case basis.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–67, FAR Case 2013–005) in correspondence.

V. Paperwork Reduction Act

The interim rule does not contain any information collection requirements that

require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. As OMB explains in its guidance to agencies regarding the OLC opinion, an interim rule is necessary to allow agencies to continue with acquisitions using TOS or EULAs and minimize disruption to the timely acquisition of supplies and services needed to accomplish critical requirements that may otherwise arise unless immediate steps are taken to provide regulatory guidance to help them avoid future violations of the Anti-Deficiency Act. OLC's opinion, which was originally provided to the Department of Commerce on March 27, 2012, was released on November 15, 2012, putting agencies on notice at that time of the potential risk of violation and creating a need for this prompt Government-wide action to avoid future noncompliance with the Act and any associated adverse impacts to Federal missions or personnel.

This Government-wide rule will facilitate a consistent approach across agencies for addressing OLC's opinion and avoid the potential burden and cost contractors might otherwise incur in having to negotiate contract terms with each agency. The rule has been narrowly crafted to address only the specific concerns identified in the OLC opinion and OMB memorandum and to minimize changes that are promulgated without prior public comment on this subject.

Pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 12, 13, 32, 43, and 52

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 12, 13, 32, 43, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 12, 13, 32, 43, and 52 are revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 12.102 by revising paragraph (e)(4) to read as follows:

12.102 Applicability.

* * * * *

(e) * * *

(4) Using the Governmentwide commercial purchase card as a method of purchase rather than only as a method of payment; or

* * * * *

■ 3. Add section 12.216 to read as follows:

12.216 Unenforceability of unauthorized obligations.

Many supplies or services are acquired subject to supplier license agreements. These are particularly common in information technology acquisitions, but they may apply to any supply or service. For example, computer software and services delivered through the internet (web services) are often subject to license agreements, referred to as End User License Agreements (EULA), Terms of Service (TOS), or other similar legal instruments or agreements. Many of these agreements contain indemnification clauses that are inconsistent with Federal law and unenforceable, but which could create a violation of the Anti-Deficiency Act (31 U.S.C. 1341) if agreed to by the Government. Paragraph (u) of the clause at 52.212–4 prevents any such violations.

■ 4. Amend section 12.302 by revising paragraphs (b)(5) and (b)(6); and adding a new paragraph (b)(7) to read as follows:

12.302 Tailoring of provisions and clauses for the acquisition of commercial items.

* * * * *

(b) * * *

(5) Other compliances;

(6) Compliance with laws unique to Government contracts; and

(7) Unauthorized obligations.

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.201 [Amended]

■ 5. Amend section 13.201 by removing from paragraph (d) ''at 32.1110'' and adding ''at 13.202 and 32.1110'' in its place.

13.202 [Redesignated as 13.203]

■ 6. Redesignate section 13.202 as section 13.203; and add a new section 13.202 to read as follows:

13.202 Unenforceability of unauthorized obligations in micro-purchases.

Many supplies or services are acquired subject to supplier license agreements. These are particularly common in information technology acquisitions, but they may apply to any supply or service. For example, computer software and services delivered through the internet (web services) are often subject to license agreements, referred to as End User License Agreements (EULA), Terms of Service (TOS), or other similar legal instruments or agreements. Many of these agreements contain indemnification clauses that are inconsistent with Federal law and unenforceable, but which could create a violation of the Anti-Deficiency Act (31 U.S.C. 1341) if agreed to by the Government. The clause at 52.232–39, Unenforceability of Unauthorized Obligations, automatically applies to any micro-purchase, including those made with the Governmentwide purchase card. This clause prevents such violations of the Anti-Deficiency Act.

PART 32—CONTRACT FINANCING

32.703–2 [Amended]

■ 7. Amend section 32.703–2 by—

■ a. Removing from paragraph (a) ''see 32.705–1(a)'' and adding ''see 32.706–1(a)'' in its place; and

■ b. Removing from paragraph (b)(2) ''see 32.705–1(b)'' and adding ''see 32.706–1(b)'' in its place.

32.705 through 32.705–2 [Redesignated as 32.706 through 32.706–2]

■ 8. Redesignate sections 32.705 through 32.705–2 as sections 32.706 through 32–706–2, respectively.

■ 9. Add a new section 32.705 to read as follows:

32.705 Unenforceability of unauthorized obligations.

Many supplies or services are acquired subject to supplier license agreements. These are particularly common in information technology

acquisitions, but they may apply to any supply or service. For example, computer software and services delivered through the internet (web services) are often subject to license agreements, referred to as End User License Agreements (EULA), Terms of Service (TOS), or other similar legal instruments or agreements. Many of these agreements contain indemnification clauses that are inconsistent with Federal law and unenforceable, but which could create a violation of the Anti-Deficiency Act (31 U.S.C. 1341) if agreed to by the Government.

■ 10. Add section 32.706–3 to read as follows:

32.706–3 Clause for unenforceability of unauthorized obligations.

The contracting officer shall insert the clause at 52.232–39, Unenforceability of Unauthorized Obligations in all solicitations and contracts.

PART 43—CONTRACT MODIFICATIONS

43.201 [Amended]

■ 11. Amend section 43.201 by removing from paragraph (b) ''see 32.705–2'' and adding ''see 32.706–2'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.212–4 by revising the date of the clause and paragraph (s)(2); and adding paragraph (u) to read as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items (Jun 2013)

* * * * *

(s) * * *

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

* * * * *

(u) *Unauthorized Obligations.* (1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an ''I agree'' click box or other comparable mechanism (*e.g.,* ''click-wrap'' or ''browse-wrap'' agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

* * * * *

■ 13. Amend section 52.213–4 by revising the date of the clause; and adding paragraph (a)(2)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items)

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Jun 2013)

* * * * *

(a) * * *

(2) * * *

(viii) 52.232–39, Unenforceability of Unauthorized Obligations (JUN 2013).

* * * * *

■ 14. Amend section 52.232–18 by revising the introductory text to read as follows:

52.232–18 Availability of Funds.

As prescribed in 32.706–1(a), insert the following clause:

* * * * *

■ 15. Amend section 52.232–19 by revising the introductory text to read as follows:

52.232–19 Availability of Funds for the Next Fiscal Year.

As prescribed in 32.706–1(b), insert the following clause:

* * * * *

■ 16. Amend section 52.232–20 by revising the introductory text to read as follows:

52.232–20 Limitation of Cost.

As prescribed in 32.706–2(a), insert the following clause. The 60-day period may be varied from 30 to 90 days and the 75 percent from 75 to 85 percent. ''Task Order'' or other appropriate designation may be substituted for ''Schedule'' wherever that word appears in the clause:

* * * * *

■ 17. Amend section 52.232–22 by revising the introductory text to read as follows:

52.232–22 Limitation of Funds.

As prescribed in 32.706–2(b), insert the following clause. The 60-day period may be varied from 30 to 90 days and the 75 percent from 75 to 85 percent. ''Task Order'' or other appropriate designation may be substituted for ''Schedule'' wherever that word appears in the clause:

* * * * *

■ 18. Add section 52.232–39 to read as follows:

52.232–39 Unenforceability of Unauthorized Obligations.

As prescribed in 32.706–3, insert the following clause:

Unenforceability of Unauthorized Obligations (JUN 2013)

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an ''I agree'' click box or other comparable mechanism (*e.g.,* ''click-wrap'' or ''browse-wrap'' agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(b) Paragraph (a) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of clause)

[FR Doc. 2013–14614 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 2005–67; FAR Case 2012–018; Item VI; Docket 2012–0018, Sequence 1]

RIN 9000–AM27

Federal Acquisition Regulation; Price Analysis Techniques

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to clarify and give a precise reference in the use of a price analysis technique in order to establish a fair and reasonable price.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2012–018.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 77 FR 40552 on July 10, 2012, to clarify and pinpoint a reference used in FAR 15.404–1(b)(2)(i). FAR 15.404–1(b)(2) addresses various price analysis techniques and procedures that the Government may use to ensure a fair and reasonable price. One of those techniques at FAR 15.404–1(b)(2)(i) describes the comparison of proposed prices received in response to a solicitation as an example of such techniques and procedures. In its discussion, FAR 15.404–1(b)(2)(i) references 15.403–1(c)(1), which sets forth the various standards of adequate price competition (for exceptions from certified cost or pricing data requirements). However, only FAR 15.403–1(c)(1)(i) (rather than all of 15.403–1(c)(1)) actually addresses the situation when two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement. Since FAR 15.404–1(b)(2)(i) deals only with the price analysis technique of comparing proposed prices received in response to a solicitation, the reference in this section is more appropriately identified as 15.403–1(c)(1)(i), which is more precise (and addresses adequate price competition when proposed prices are received from multiple offerors), in lieu of the existing reference, 15.403–1(c)(1), which is more generalized (and addresses various standards for adequate price competition, including the receipt of proposed prices from multiple offerors).

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

FAR 15.404–1(b)(2)(i) is amended to change the reference in this FAR section from 15.403–1(c)(1) to 15.403–1(c)(1)(i). This change ensures that the revised reference is more precise and directly related to the topic covered in 15.404–1(b)(2)(i).

Based on a review of the public comments, discussed below, the Councils have concluded that no change to the proposed rule is necessary.

B. Analysis of Public Comments

The Regulatory Secretariat received responses from two respondents to the proposed rule, which are discussed below:

1. Determination That a Price Is Fair and Reasonable

Comment: One respondent believed that removing the reference to FAR 15.403–1(c)(1) and replacing it with 15.403–1(c)(1)(i) would mean that only one of the three prongs of the definition of adequate price competition could be used to establish that a price is fair and reasonable.

Response: FAR 15.404–1(b)(2) delineates the various price analysis techniques to ensure a fair and reasonable price; 15.404–1(b)(2)(i) describes one of those price analysis techniques, the comparison of proposed prices received in response to a solicitation, and refers to 15.403–1(c)(1) therein. The current reference (to FAR 15.403–1(c)(1)) in this section (15.404–1(b)(1)(2)(i)) was too broad; therefore, this rule changes this reference to 15.403–1(c)(1)(i), which precisely aligns the price analysis technique of comparing multiple proposed prices received in response to a solicitation described in 15.404–1(b)(2)(i) with the adequate price competition standard (for exceptions from certified cost or pricing data requirements) of comparing proposed prices submitted by multiple independent offerors. The other two alternative standards for establishing adequate price competition within the generalized reference FAR 15.403–1(c)(1) (for exceptions from certified cost or pricing data requirements) at 15.403–1(c)(1)(ii) and (iii) do not involve any comparison of proposed prices submitted by multiple offerors. Furthermore, it was illogical to rely on the other two alternative standards of adequate price competition (for exceptions from certified cost or pricing data requirements at FAR 15.403–1(c)(1)(ii) and (iii)) to determine a fair and reasonable price using price analysis techniques and procedures (per the prescription at 15.404–1(b)(2(i)). This is because the determination that the price is fair and reasonable itself is required for these two alternative standards at FAR 15.403–1(c)(1)(ii) and (iii) in order to determine that adequate price competition exists. These two alternative standards of adequate price competition can be used to meet the exceptions from certified cost or pricing data requirements, but only after some form of cost or price analysis has been applied to determine that the price is fair and reasonable; *i.e.,* these two alternative standards of adequate price competition are insufficient by themselves to be used to establish fair and reasonable prices in accordance with price analysis techniques and procedures (per FAR 15.404–1(b)(2)).

2. Justification for Changing FAR Price Analysis Techniques

Comment: One respondent stated that no justification has been provided to support this proposed change to the FAR price analysis techniques. The respondent stated they did not know what supposed problem the proposed rule is intended to address.

Response: The Councils note that this rule does not change the availability of the various price analysis techniques available to the contracting officer. The current FAR reference (to 15.403–1(c)(1)) is a FAR section that discusses various standards for adequate price competition (for exceptions from certified cost or pricing data requirements), including the price analysis technique of comparing two or more proposed prices. The rule simply pinpoints the reference associated with the price analysis technique of comparing proposed prices (described at

15.404–1(b)(2)(i) for determining a fair and reasonable price) with the FAR section (15.403–1(c)(1)(i)) that discusses the comparison of proposed prices submitted by two or more responsible offerors (for determining adequate price competition, one of the standards for exception from certified cost or pricing data requirements). Additionally, it eliminates a possible inconsistency. The current reference (to FAR 15.403–1(c)(1)) in the discussion on price analysis techniques to ensure a fair and reasonable price (at 15.404–1(b)(2)(i)) could be interpreted to mean that the other two alternative standards for adequate price competition (for exceptions from certified cost or pricing data requirements described at 15.403–1(c)(1)(ii) and (iii)) could be used to determine a fair and reasonable price, when, in fact, they cannot. See response to Comment 1, Determination that a price is fair and reasonable.

3. The Promotion of Competition

Comment: One respondent believed that the proposed rule would discourage contracting officers from promoting competition.

Response: This rule does not discourage contracting officers from promoting competition. 10 U.S.C. 2304 and 41 U.S.C. 3301 require, with certain limited exceptions, that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts (see FAR 6.101). This rule has no effect on those statutory requirements. Furthermore, there is great emphasis within the Government on obtaining competition, because competition generally results in cost savings to the Government.

4. Expansion of Cost or Pricing Data Requests

Comment: Although one respondent acknowledged that this rule does not alter the current FAR requirements regarding the requesting of certified cost or pricing data, the respondent believed that this FAR change will inevitably lead to contracting officers requesting data other than certified cost or pricing data for a greater number of procurements. According to the respondent, this will impose substantial costs on prospective offerors who will be forced to compile comprehensive cost or pricing data to meet the Government's expansive definition of that term. Compiling these data will also be time consuming which will delay procurements. The respondent also stated that there is no reasonable basis to revert to the broad requirements for submission of cost or pricing data that existed prior to the statutory reforms of the 1990s, including the Federal Acquisition Streamlining Act of 1994.

Response: This rule should not impact the requesting of data other than certified cost or pricing data. FAR 15.403–1(c)(1)(ii) and (iii) already requires determination that the price is reasonable in order for adequate price competition to exist. According to the pricing policy at 15.402, which remains unchanged, contracting officers are directed to obtain only the minimum amount of data necessary to establish a fair and reasonable price, and are directed at FAR 15.403–3(b) to obtain any necessary additional data from sources other than the offeror to the maximum extent practicable.

5. Significant Regulatory Action

Comment: One respondent stated that this proposed rule is a significant regulatory action and should have been subject to review by the Office of Information and Regulatory Affairs (OIRA). The respondent stated that the proposed rule will have an annual effect on the economy of $100 million or will adversely affect a sector of the economy in a material way. The respondent believed that by indicating that the proposed rule merely ''clarifies'' FAR 15.404–1(b)(2)(i), the Councils are subverting the OFPP Act requirements to solicit and provide an opportunity for public comment. The Councils should issue another **Federal Register** notice that explains the nature and effect of the proposed changes that reasonably solicits public comments on those changes.

Response: The Councils met the requirements of the OFPP Act by publishing the proposed rule and its supporting rationale in the **Federal Register** for public comment. Furthermore, DoD, GSA, and NASA submit all FAR rules to OIRA for clearance to publish. OIRA determined that the rule was not a significant rule and cleared it for publication without subjecting it to the formal coordination and review under section 6(b) of E.O. 12866. OIRA also concurred that this is not a major rule under 5 U.S.C. 804.

6. Distinction Between Adequate Competition and Adequate Price Competition

Comment: One respondent commented that a reasonableness determination and comparison of prices based upon two or more offers are two different things that require a distinction. The respondent further stated that a price found reasonable is not suitable in all cases to be used for comparison and that this was an opportunity for the FAR to make explicit such a distinction. The respondent recommended that adequate competition be distinguished from adequate price competition.

Response: The Councils take no position on this comment because it is outside the scope of this case, which was limited to clarifying a FAR reference relative to a particular price analysis technique.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this final rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* because this rule merely clarifies and pinpoints the reference at FAR 15.404–1(b)(2)(i), a discussion on the price analysis technique of comparing two or more proposed prices received in response to the solicitation in order to establish a fair and reasonable price. The original, more generalized reference (to FAR 15.403–1(c)(1)), which describes various standards for adequate price competition (for exceptions from certified cost or pricing data requirements, including comparing proposals from multiple offerors), is changed to the more precise reference, 15.403–1(c)(1)(i), which describes the receipt of multiple offers in response to the solicitation as a standard for adequate price competition. Nevertheless DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5.U.S.C. 601, *et seq.* The FRFA is summarized as follows:

FAR 15.404–1(b)(2) addresses various price analysis techniques and procedures the Government may use to ensure a fair and

reasonable price. FAR 15.404–1(b)(2)(i) discusses the comparison of proposed prices received in response to a solicitation as an example of such techniques and procedures. In this discussion of price analysis techniques, FAR 15.404–1(b)(2)(i) references 15.403–1(c)(1), which sets forth the various standards of adequate price competition (for exceptions from certified cost or pricing data requirements). However, only FAR 15.403–1(c)(1)(i) addresses the situation when two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement, a situation which is consistent with the price analysis technique of comparing proposed prices from multiple offerors. Therefore, the reference in FAR 15.404–1(b)(2)(i) is more appropriately identified as 15.403–1(c)(1)(i), which describes the standard comparing proposed prices received from multiple offerors, rather than the generalized 15.403–1(c)(1), which is broader in scope with various additional standards of adequate price competition.

One comment from an interested party was submitted in response to the Regulatory Flexibility Act request under the proposed rule. The respondent believed that this rule was a significant regulatory action under E.O. 12866 based upon the respondent's interpretation that the rule would constitute a significant change to the pricing regulations in FAR subpart 15.4. However, FAR 15.404–1(b)(2) delineates the various price analysis techniques; 15.404–1(b)(2)(i) describes the comparison of proposed prices received in response to a solicitation. The current reference in this section (to FAR 15.403–1(c)(1)) was too broad; therefore, this rule changes this generalized reference to 15.403–1(c)(1)(i), which precisely aligns the price analysis technique of comparing proposed prices from multiple offerors in 15.404–1(b)(2)(i) (for determining a fair and reasonable price) with the adequate price competition standard of comparing two or more offerors' proposed prices (for exceptions from certified cost or pricing data requirements). The designation of a rule as significant regulatory action under E.O. 12866 is made by the Office of Information and Regulatory Affairs within the Office of Management and Budget, which declined to designate this rule as requiring official review. No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the rule and no changes were made to the rule.

It is not expected that this rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.;* this rule merely clarifies that in order to establish a fair and reasonable price, the reference at FAR 15.404–1(b)(2)(i) (which describes the pricing technique of comparing proposed prices from multiple offerors) shall be the more precise FAR 15.403–1(c)(1)(i) (which describes the standard for adequate price competition when proposed prices are submitted by multiple offerors), rather than the more generalized 15.403–1(c)(1) (which describes various standards for adequate price competition, including comparing proposed prices from multiple offerors).

There are no projected reporting, recordkeeping, or other compliance requirements projected for this rule.

The approach described in the final rule is the most practical and beneficial for both Government and industry.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subject in 48 CFR Part 15

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 15 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

15.404–1 [Amended]

■ 2. Amend section 15.404–1 by removing from paragraph (b)(2)(i) ''15.403–1(c)(1)'' and adding ''15.403–1(c)(1)(i)'' in its place.

[FR Doc. 2013–14615 Filed 6–20–13; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 19

[FAC 2005–67; FAR Case 2013–010; Item VII; Docket 2013–0010, Sequence 1]

RIN 9000–AM59

Federal Acquisition Regulation; Contracting With Women-Owned Small Business Concerns

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to remove the dollar limitation for set-asides to economically disadvantaged women-owned small business concerns and to women-owned small business concerns eligible under the Women-owned Small Business Program.

DATES: *Effective Date:* June 21, 2013.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before August 20, 2013 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–67, FAR Case 2013–010, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2013–010''. Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2013–010.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2013–010'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* U.S. General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Hada Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–67, FAR Case 2013–010, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at 202–501–2364, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2013–010.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing an interim rule amending the FAR, to implement section 1697 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, Public Law 112–239, which amended section 8(m) of the Small Business Act, (15 U.S.C. 637(m)). Section 8(m) of the Small Business Act sets forth the Procurement Program for

Women-owned Small Business Concerns, which is the statutory authority for SBA's Women-owned Small Business Federal Contract Program. Section 1697 of the NDAA for FY 2013 amended section 8(m) by removing the dollar limitation for set-asides. The dollar limit (as increased for inflation—see FAR 1.109) for acquisitions in the manufacturing industries, was $6.5 million or less (including options), and in the case of all other acquisitions, $4 million or less (including options).

Pursuant to this statutory change and in conformance with the Small Business Administration's (SBA's) revised regulations at 13 CFR 127.503(a)(2) and 127.503(b)(2), (see SBA's interim final rule published in the **Federal Register** at 78 FR 26504, on May 7, 2013), this rule amends FAR 19.1505(b) and (c) by removing the dollar limitations on the anticipated award price of contracts to economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the WOSB Program. As a result, contracting officers may set aside acquisitions for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program at any dollar level above the micro-purchase threshold, provided the other requirements for a set-aside under the WOSB Program are met.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

The objective of this interim rule is to remove language in the FAR that restricts set-asides to economically disadvantaged women-owned small business (EDWOSB) concerns and to women-owned small business concerns eligible under the women-owned small business (WOSB) Program, in industries that are underrepresented or substantially underrepresented by women-owned small business concerns. The dollar limits (as increased for inflation—see FAR 1.109) are currently $6.5 million (including options) for acquisitions in manufacturing industries and $4 million (including options) for all other acquisitions. The legal basis for this interim rule is section 1697 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, which amended the statutory limitations at section 8(m) of the Small Business Act, (15 U.S.C. 637(m)), by permanently removing these limitations.

Analysis of the Federal Procurement Data System from April 1, 2011 (the implementation date of the WOSB Program) through January 1, 2013, reveals there are approximately 26,712 WOSB concerns, including 131 EDWOSB concerns and 388 women-owned small business concerns eligible under the WOSB Program, that received obligated funds from Federal contract awards, task or delivery orders, and modifications to existing contracts. This interim rule may have a significant positive economic impact on EDWOSB concerns competing for contracting opportunities in industries determined by SBA to be underrepresented by women-owned small business concerns and may positively affect WOSB concerns eligible under the WOSB Program competing in industries determined by SBA to be substantially underrepresented by women-owned small business concerns, since removing the dollar threshold for set-asides under the WOSB Program will provide greater access to Federal contracting opportunities. However, this rule may have a negative effect on firms that are women-owned but are not WOSB Program participants and small businesses that are not owned by women (*i.e.,* small business concerns that are not 51 percent owned and controlled by women), because those firms may now be excluded from competition on some acquisitions that could not be set aside for EDWOSB concerns or WOSB concerns eligible under the WOSB Program due to the dollar thresholds and now will be set aside.

This interim rule does not impose new recordkeeping or reporting requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no alternatives to the rule which would accomplish the stated objectives of the statute.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–67, FAR Case 2013–010), in correspondence.

IV. Paperwork Reduction Act

The interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

V. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary in order to avoid conflicting guidance between the two primary regulations used by the Federal acquisition community to implement the WOSB Program, the Small Business Regulations and the FAR.

Section 1697 of the NDAA for Fiscal Year 2013 (Publ. Law 112–239) was enacted by Congress and became effective on January 2, 2013. In response to this statutory change, the Small Business Administration issued an interim final rule published in the **Federal Register** at 78 FR 26504, on May 7, 2013, amending 13 CFR 127.503(a)(2) and 127.503(b)(2) to remove the anticipated contract dollar thresholds for determining when the contracting officer may set aside a requirement for economically disadvantaged women-owned small business (EDWOSB) concerns and/or WOSB concerns eligible under the WOSB Program. As a result, the FAR must also be amended at 19.1505(b)(2) and 19.1505(c)(2) to remove the anticipated award thresholds for EDWOSB concerns and WOSB concerns eligible under the WOSB Program, in order to minimize the risk of disseminating conflicting guidance to the Federal acquisition community.

In addition, by issuing an interim rule that is effective upon publication, prior to the receipt of public comment, agencies can immediately begin taking advantage of having no dollar limitations for set-asides to EDWOSB or WOSB concerns eligible under the

WOSB Program, as envisioned by section 1697.

However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subject in 48 CFR Part 19

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 19 as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

19.1505 [Amended]

■ 2. Amend section 19.1505 by—
■ a. Adding to the end of paragraph (b)(1) ''and'';
■ b. Removing paragraph (b)(2);
■ c. Redesignating paragraph (b)(3) as (b)(2);
■ d. Adding to the end of paragraph (c)(1) ''and'';
■ e. Removing paragraph (c)(2);
■ f. Redesignating paragraph (c)(3) as (c)(2); and
■ g. Removing from paragraph (g)(3) ''appeal, that there are urgent'' and adding ''appeal, unless the head of the agency makes a written determination that urgent'' in its place.

[FR Doc. 2013–14616 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAC 2005–67; FAR Case 2013–008; Item VIII; Docket 2013–0008, Sequence 1]

RIN 9000–AM54

Federal Acquisition Regulation; Deletion of Report to Congress on Foreign-Manufactured Products

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to eliminate an obsolete Congressional reporting requirement on acquisitions of end products manufactured outside the United States.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2013–008.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends FAR 25.001 and 25.004 to eliminate an obsolete Congressional reporting requirement imposed by the United States Troops Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (41 U.S.C. 8302(b)(1)).

This Act required the heads of each Federal agency to submit a report to Congress on acquisitions of articles, materials, or supplies that are manufactured outside the United States for Fiscal Year 2007 through Fiscal Year 2011. The report to Congress is no longer required but the collection of the data in the Federal Procurement Data System is still required (see FAR 52.225–18, Place of Manufacture).

II. Discussion and Analysis

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because this rule serves to eliminate a reporting requirement that only affected the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subject in 48 CFR Part 25

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 25 as set forth below:

PART 25—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 25 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

25.001 [Amended]

■ 2. Amend section 25.001 by—

■ a. Removing from the introductory text of paragraph (c) ''report on end products manufactured outside the United States (see 25.004)'' and adding ''representation on end products manufactured outside the United States (see 52.225–18)'' in its place; and

■ b. Removing from paragraph (c)(3) ''For the reporting requirement at 25.004'' and adding ''For the representation at 52.225–18'' in its place.

25.004 [Removed]

■ 3. Remove section 25.004.

[FR Doc. 2013–14617 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 2005–67; FAR Case 2012–027; Item IX; Docket 2012–0027, Sequence 1]

RIN 9000–AM43

Federal Acquisition Regulation; Free Trade Agreement (FTA)-Panama

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement the United States-Panama Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Panama.

DATES: *Effective Date:* June 21, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2012–027.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 77 FR 69723, on November 20, 2012, to implement the United States-Panama Trade Promotion Agreement. The comment period closed on January 22, 2013. Two respondents submitted comments on the interim rule.

The interim rule added Panama to the definition of ''Free Trade Agreement country'' in multiple locations in the FAR. The Panama FTA covers acquisitions of supplies and services equal to or exceeding $202,000. The threshold for the Panama FTA is $7,777,000 for construction contracts. The Panama FTA threshold for supplies and services is higher than the threshold for supplies and services for most of the FTAs ($77,494), and equals the Bahrain, Morocco, Oman, and Peru FTA thresholds for supplies and services ($202,000). The excluded services for the Panama FTA are the same as for the Bahrain FTA, Dominican Republic—Central American FTA, Chile FTA, Colombia FTA, NAFTA, Oman FTA, and Peru FTA.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Significant Changes

The Councils have adopted the interim rule as final without change.

B. Analysis of Public Comments

1. Need for Separate Defense Federal Acquisition Regulation Supplement (DFARS) Rule

Comment: One respondent commented that they were concerned about the necessity of the interim rule, under Executive Orders 12866 and 13563, for a separate, redundant DFARS rule for the Free Trade Agreement.

Response: Implementation of trade agreements in the FAR is necessary for broad government-wide application of the trade agreements. DoD needs its unique provisions and clauses to cover Buy American and trade agreements because of unique requirements. One of the most significant reasons is the need to address the products of qualifying countries (those countries with which DoD has a Reciprocal Defense Procurement Memorandum of Understanding or other International Agreement). In addition, the Oman FTA and the Israeli Trade Agreement do not apply to DoD acquisitions. There are also statutory and policy determinations that impact DoD acquisitions of the products of Iraq and Afghanistan and other countries in the region (South Caucasus and Central and South Asia). DoD also continues to implement the Balance of Payments Program, applying the principles of the Buy American statute to acquisitions of goods for use outside the United States. Therefore, DoD has never been able to rely on promulgation of Free Trade Agreements solely within the FAR.

2. Information Collection Requirement

Comment: One respondent was further concerned that the information collection requirement is not negligible as characterized by the DFARS interim rule. According to the respondent, the DFARS requirement will require costly duplicate reporting in order to maintain compliance and is therefore not negligible.

Response: The **Federal Register** preamble for the FAR and DFARS rules did not state that the information collection requirement relating to Free Trade Agreements was negligible. The statement was that the change caused by adding Panama as a Free Trade Agreement country is negligible. There are approved burdens for the FAR Buy American and trade provisions under OMB clearance numbers 9000–0025, 9000–0130, 9000–0136, and 9000–0141. There are also burden hours approved for DoD acquisitions subject to Buy American or trade agreements under OMB clearance number 0704–0229. The DFARS requirement does not cause duplicate reporting, because no solicitation should include both the FAR and the DFARS Buy American and/or trade agreements provision. The DFARS provisions are used in lieu of the FAR provisions.

3. Access Through Canal and Security for Cargo

Comment: One respondent commented that we should work with other companies for joint economic development projects and, as to Panama, make certain that the agreements provide that we will have continued access through the canal and the necessary security for our cargo.

Response: The Council takes no position on this comment because it is outside the scope of this case, which was limited to implementing the United States-Panama Trade Promotion Agreement. The Office of the United States Trade Representative negotiates the treaties, which are then implemented in law by Congress.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This

rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because although the rule now opens up Government procurement to the goods and services of Panama, DoD, GSA, and NASA do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside or provide other form of preference for small businesses are exempt. FAR 19.502–2 states that acquisitions of supplies or services with an anticipated dollar value between $3,000 and $150,000 (with some exceptions) are automatically reserved for small business concerns.

V. Paperwork Reduction Act

The rule affects the certification and information collection requirements in the provisions at FAR 52.212–3, 52.225–4, 52.225–6, and 52.225–11 currently approved under the OMB Control Numbers 9000–0136, titled: Commercial Item Acquisition; 9000–0130, titled: Buy American Act-Free Trade Agreements–Israeli Trade Act Certificate; 9000–0025, titled: Trade Agreements Certificate; and 9000–0141, titled: Buy American-Construction, respectively, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because it is just a question of which category offered goods from Panama would be listed under.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 25 and 52, which was published in the **Federal Register** at 77 FR 69723, on November 20, 2012, is adopted as a final rule without change.

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

[FR Doc. 2013–14618 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 2005–67; FAR Case 2011–019; Item X; Docket 2011–0019, Sequence 1]

RIN 9000–AM23

Federal Acquisition Regulation; Updated Postretirement Benefit (PRB) References

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove references to specific paragraphs of an accounting standard that were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of Generally Accepted Accounting Principles (GAAP). The references no longer exist in the authoritative GAAP (the ASC). This final rule replaces the current GAAP references in the FAR with explicit criteria that generally replicate the substance of the formerly referenced GAAP methodology so that the substance of the FAR does not change as a result of this final rule.

DATES: *Effective Date:* July 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2011–019.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 77 FR 29305 on May 17, 2012, to replace the obsolete references to paragraphs 110, 112, and 113 of Financial Accounting Standard (FAS) 106 (provisions of GAAP that no longer exist) in FAR 31.205–6(o)(2)(iii)(A)(*1*) with explicit criteria that generally replicate the GAAP methodology detailed in the deleted paragraphs. This revision is intended to allow a general continuation for FAR purposes (for PRB costs for Government contract cost accounting) of the now-obsolete GAAP delayed recognition method for contractors that move from a pay-as-you-go method of accounting to an accrual basis of accounting.

In June of 2009, the FASB announced, in its Statement Number 168, that effective for financial statements issued for interim and annual periods ending after September 15, 2009, the ASC would become the source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. The FASB stated that this codification supersedes existing references in U.S. GAAP.

The now-superseded GAAP provisions in FAR 31.205–6(o)(2)(iii)(A)(*1*) referenced the description of ''transition obligation'' in paragraph 110 of FAS 106 and the ''delayed recognition methodology'' in paragraphs 112 and 113, also of FAS 106.

These references to FAS 106 in the cost principle were added in FAR Case 91–42, published in the **Federal Register** at 56 FR 41738 on August 22, 1991. At the time, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) decided not to allow contractors to claim the entire ''transition obligation'' associated with their initial application of FAS 106 as an allowable cost in accordance with the ''immediate recognition'' procedure in (the now-superseded) paragraph 111 of FAS 106. (The transition obligation associated with initial application of FAS 106 is referred to hereafter as the ''initial application transition obligation.'') Therefore, the Councils disallowed costs for the amortization of the initial application transition obligation in excess of the amount amortized using the delayed recognition method procedure in (the now-superseded) paragraphs 112 and 113 of FAS 106.

As a result of the FASB announcement that the ASC is now the source of the authoritative U.S. GAAP, the Councils note that the references to paragraphs 111, 112, and 113, respectively, of FAS 106 (for the immediate and delayed recognition procedures for the initial application transition obligation), are no longer valid because FAS 106 no longer exists in the authoritative GAAP (the ASC). When the FASB recodified FAS 106 into the ASC, paragraphs 111 through 114 were not included because public

companies recognized the transition obligation in the first fiscal period beginning after December 15, 1994, or shortly thereafter if exempted from the initial effective date. While the existing provision at FAR 31.205–6(o)(2)(iii)(A)(*1*) remains in force because the referenced GAAP paragraphs can be found in the historical accounting literature, the passage of time raises concerns that the text of these paragraphs may become less readily available. The Councils conclude, therefore, that explicit criteria that generally replicates the substance of the formerly referenced GAAP methodology are needed for determining the allowability of the transition obligation, when converting from pay-as-you-go accounting for PRBs to an accrual method of accounting for the purposes of Government contract cost accounting, as they do not intend to change the substance of the FAR.

The Councils acknowledge that contractors may continue to propose (as they have in the past) a change to their Government contract cost accounting practice whereby the ''pay-as-you-go'' method is replaced by the ''accrual'' method, and this may give rise to a transition obligation that is similar in its nature, but not its amount, to the initial application transition obligation that arose when (now-superseded) FAS 106 first became applicable in the early 1990's for financial reporting purposes.

II. Discussion and Analysis

DoD, GSA, and NASA received no comments on the proposed rule and are therefore issuing the rule as final with minor changes from the proposed rule.

III. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule only removes references to specific paragraphs in an accounting standard that were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of Generally Accepted Accounting Principles (GAAP) and replaces them with explicit criteria that generally replicate the substance of the formerly referenced GAAP methodology (*i.e.,* the substance of the FAR did not change as a result of this final rule). No comments from small entities were received in response to the Regulatory Flexibility Act request under the proposed rule.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subject in 48 CFR Part 31

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 31.205–6 by revising paragraph (o)(2)(iii)(A) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(o) * * *

(2) * * *

(iii) * * *

(A) Be measured and assigned in accordance with one of the following two methods described under paragraphs (o)(2)(iii)(A)(*1*) or (o)(2)(iii)(A)(*2*) of this subsection:

(*1*) Generally accepted accounting principles. However, transitions from the pay-as-you-go method to the accrual accounting method must be handled according to paragraphs (o)(2)(iii)(A)(*1*)(*i*) through (*iii*) of this subsection.

(*i*) In the year of transition from the pay-as-you-go method to accrual accounting for purposes of Government contract cost accounting, the transition obligation shall be the excess of the accumulated PRB obligation over the fair value of plan assets determined in accordance with paragraph (o)(2)(iii)(E) of this subsection; the fair value must be reduced by the prepayment credit as determined in accordance with paragraph (o)(2)(iii)(F) of this subsection.

(*ii*) PRB cost attributable to the transition obligation assigned to the current year that is in excess of the amount assignable to accounting periods on the basis of a straight line amortization of the transition obligation over the average remaining working lives of active employees covered by the PRB plan or a 20-year period, whichever period is longer, is unallowable. However, if the plan is comprised of inactive participants only, the PRB cost attributable to the transition obligation assigned to the current year that is in excess of the amount assignable to accounting periods on a straight line amortization of the transition obligation over the average future life expectancy of the participants is unallowable.

(*iii*) For a plan that transitioned from pay-as-you-go to accrual accounting for Government contract cost accounting prior to July 22, 2013, the unallowable amount of PRB cost attributable to the transition obligation amortization shall continue to be based on the cost principle in effect at the time of the transition until the original transition obligation schedule is fully amortized.

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[FR Doc. 2013–14619 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8 and 52

[FAC 2005–67; Item XI; Docket 2013–0080; Sequence 3]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective Date:* June 21, 2013.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–67, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 8 and 52, this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 8 and 52

Government procurement.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 8 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 8 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. Amend section 8.703 by revising the third sentence to read as follows:

8.703 Procurement list.

* * * Questions concerning whether a supply item or service is on the Procurement List may be submitted at Internet email address *info@abilityone.gov* or referred to the Committee offices at the following address and telephone number: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, VA 22202–3259, 703–603–7740. * * *

■ 3. Amend section 8.714 by revising paragraph (b) to read as follows:

8.714 Communications with the central nonprofit agencies and the Committee.

* * * * *

(b) Any matter requiring referral to the Committee shall be addressed to the Executive Director of the Committee, 1401 S. Clark Street, Suite 10800, Arlington, VA 22202–3259.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.204–8 by:

■ a. Revising the date of the provision; and

■ b. Removing from paragraphs (b)(1), the introductory text of (b)(2), and (c)(1)(iii) ''clause at 52.204–7'' and adding ''provision at 52.204–7'' in its place.

The revised text reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications [Jun 2013]

* * * * *

■ 5. Amend section 52.204–10 by:

■ a. Revising the date of the clause; and

■ b. Removing from the introductory text of paragraph (d)(1) ''FAR clause'' and adding ''FAR provision'' in its place.

The revised text reads as follows:

52.204–10 Reporting Executive Compensation and First-Tier Subcontract Awards.

* * * * *

Reporting Executive Compensation and First-Tier Subcontract Awards [Jun 2013]

* * * * *

[FR Doc. 2013–14620 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2013–0078; Sequence 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–67; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–67, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–67, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: June 21, 2013.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–67 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

LIST OF RULES IN FAC 2005–67

Item	Subject	FAR case	Analyst
*I	Contractors Performing Private Security Functions Outside the United States	2011–029	Jackson.
II	Contracting Officer's Representative	2013–004	Jackson.
III	System for Award Management Name Change, Phase 1 Implementation	2012–033	Glover.
*IV	Interagency Acquisitions: Compliance by Nondefense Agencies with Defense Procurement Requirements.	2012–010	Corrigan.
*V	Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations (Interim).	2013–005	Petrusek.
*VI	Price Analysis Techniques	2012–018	Chambers.
*VII	Contracting with Women-owned Small Business Concerns (Interim)	2013–010	Morgan.
VIII	Deletion of Report to Congress on Foreign-Manufactured Products	2013–008	Davis.
IX	Free Trade Agreement (FTA)-Panama	2012–027	Davis.
X	Updated Postretirement Benefit (PRB) References	2011–019	Chambers.
XI	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–67 amends the FAR as specified below:

Item I—Contractors Performing Private Security Functions Outside the United States (FAR Case 2011–029)

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement Governmentwide requirements contained in section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181), as amended by section 853 of the NDAA for FY 2009 (Pub. L. 110–417) and sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383). See 10 U.S.C. 2302 Note. These statutes establish minimum processes and requirements for the selection, accountability, training, equipping, and conduct of personnel performing private security functions outside the United States.

Item II—Contracting Officer's Representative (FAR Case 2013–004)

This final rule amends the FAR to improve contract surveillance by clarifying the contracting officer's representative (COR) responsibilities in FAR 1.602–2(d). In addition, a corresponding change is also made at FAR 7.104(e). This case originated from a Department of Defense (DoD) Panel on Contracting Integrity recommendation. The DoD Panel on Contracting Integrity, an internal DoD panel, consists of senior-level DoD officials from across DoD working to review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur, and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. In order to improve the contracting environment, this rule provides additional explanation in the FAR to ensure that CORs understand their duties and responsibilities to survey contractor performance. This final rule is not required to be published for public comment because it only involves internal Government procedures regarding the appointment of CORs and the clarification of COR responsibilities, and has neither a significant effect beyond the internal operation procedures of the agency issuing the policy, regulation, procedure or form, nor has a significant cost or administrative impact on contractors or offerors.

Item III—System for Award Management Name Change, Phase 1 Implementation (FAR Case 2012–033)

This final rule amends the FAR by updating references and names to conform to the System for Award Management (SAM) designation. The SAM is a Federal Government owned and operated free Web site that consolidates the capabilities in certain legacy systems that are used by Federal officials in the procurement and awards process. This rule incorporates language that will transition the Central Contractor Registration (CCR) database, the Excluded Parties List System (EPLS), and the Online Representations and Certifications Application (ORCA) to the SAM designation. This final rule also makes a number of minor additional conforming changes, such as updates to definitions.

Item IV—Interagency Acquisitions: Compliance by Nondefense Agencies With Defense Procurement Requirements (FAR Case 2012–010)

This final rule adopts with minor changes an interim rule published in the **Federal Register** at 77 FR 69720 on November 20, 2012. The interim rule amended the FAR to implement section 801 of Pub. L. 110–181, as amended (10 U.S.C. 2304 Note). Section 801 requires compliance certifications by nondefense agencies that purchase on behalf of the Department of Defense (DoD), and clarifies which DoD laws and regulations apply. The agencies must comply with new FAR subpart 17.7, in addition to complying with FAR subpart 17.5. To provide clarification for small business and contracting officers, existing policy for small business goal credit for assisted acquisitions was added by the interim rule to section FAR 4.603(c).

Item V—Terms of Service and Open-Ended Indemnification, and Unenforceability of Unauthorized Obligations (FAR Case 2013–005) (Interim)

This interim rule amends the FAR to address concerns raised in an opinion from the U.S. Department of Justice Office of Legal Counsel that determined the Anti-Deficiency Act is violated when a Government contracting officer or other employee with the authority to bind the Government agrees, without statutory authorization or other exception, to an open-ended, unrestricted indemnification clause. This rule clarifies for the public that an End User License Agreement (EULA), Terms of Service (TOS), or similar agreement, containing an indemnification provision, is unenforceable and nonbinding against the Government and Government—authorized end-users. The rule contains a new clause that applies to all solicitations and contracts and automatically applies to micro-purchases, including those made with the Governmentwide purchase card.

Item VI—Price Analysis Techniques (FAR Case 2012–018)

This final rule amends the FAR to clarify a reference used in FAR 15.404–1(b)(2)(i). FAR 15.404–1(b)(2) delineates the various price analysis techniques (to ensure a fair and reasonable price) with 15.404–1(b)(2)(i) being the comparison of proposed prices received from multiple offerors in response to a solicitation. The current reference in this section (FAR 15.403–1(c)(1)) was too broad; thus, this final rule changes this reference to 15.403–1(c)(1)(i), which precisely aligns the price analysis technique of comparing proposed prices in 15.404–1(b)(2)(i) with the adequate price competition standard (for exceptions from certified cost or pricing data requirements) of comparing proposed prices from multiple offerors. Small businesses are not impacted by this final rule because this rule merely clarifies the reference, changing it to cite FAR 15.403–1(c)(1)(i) (rather than the more generalized 15.403–1(c)(1)) at 15.404–1(b)(2)(i), which describes the use of the price analysis technique of comparing proposed prices from multiple offerors in order to establish a fair and reasonable price.

Item VII—Contracting With Women-Owned Small Business Concerns (FAR Case 2013–010) (Interim)

This interim rule amends FAR 19.1505 to remove the dollar limitation for set-asides for economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the Women-owned Small Business (WOSB) Program. This change implements section 1697 of the NDAA for FY 2013, Public Law 112–239, which amended section 8(m) of the Small Business Act, (15 U.S.C. 637(m)).

As a result, contracting officers may set aside acquisitions for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program at any dollar level above the micro-purchase threshold, provided the other requirements for a set-aside under the WOSB Program are met.

Item VIII—Deletion of Report to Congress on Foreign-Manufactured Products (FAR Case 2013–008)

This final rule amends the FAR to eliminate an obsolete Congressional reporting requirement imposed by the United States Troops Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (41 U.S.C. 8302(b)(1)).

This Act required these reports to Congress for Fiscal Year 2007 through Fiscal Year 2011 on acquisitions of end products manufactured outside the United States. This report to Congress is no longer required but the collection of the data in Federal Procurement Data System is still required (see FAR 52.225–18, Place of Manufacture). This final rule only affects the internal operating procedures of the Government.

Item IX—Free Trade Agreement (FTA)—Panama (FAR Case 2012–027)

This final rule adopts without change an interim rule published November 20, 2012, which implemented a new Free Trade Agreement with Panama (see the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112–43) (19 U.S.C. 3805 note).

This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Panama. This final rule is not expected to have a significant economic impact on a substantial number of small entities.

Item X—Updated Postretirement Benefit (PRB) References (FAR Case 2011–019)

This final rule amends FAR 31.205–6(o)(2)(iii)(A)(*1*) to remove references to paragraphs 110, 112, and 113 of the now superseded Financial Accounting Standard (FAS) 106, which were deleted in the Financial Accounting Standards Board's (FASB's) Accounting Standards Codification (ASC) of generally accepted accounting principles (GAAP) and replaces them with explicit criteria that are their functional equivalent. The FAR referenced GAAP to provide criteria for determining the allowability of the transition obligation, when converting from pay-as-you-go accounting for postretirement benefits (PRBs) to an accrual method of accounting for the purposes of Government contract cost accounting.

This final rule will have a minimal economic impact on small businesses because it does not change the FAR substantively.

Item XI—Technical Amendments

Editorial changes are made at FAR 8.703, 8.714, 52.204–8, and 52.204–10.

Dated: June 13, 2013.

William Clark,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–14621 Filed 6–20–13; 8:45 am]

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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Public Laws Update Service (PLUS)

PLUS is a recorded announcement of newly enacted public laws.

Note: Effective July 1, 2013, the PLUS recording service will end.

Public Law information will continue to be available on **PENS** at http://listserv.gsa.gov/archives/publaws-l.html and the Federal Register Twitter feed at http://twitter.com/fedregister.